

# Labor Tribunal Act

(Act No. 45 of May 12, 2004)

## (Purpose)

Article 1 The purpose of this Act is to establish procedures whereby, with regard to a dispute concerning civil affairs arising between an individual employee and an employer about whether or not a labor contract exists or about any other matters in connection to labor relations (hereinafter referred to as "civil disputes arising from individual labor relations"), a labor tribunal held in a court of law and composed of a judge and persons with expert knowledge and experience in labor relations hears the case at the petition of the relevant party, and whereby if the case is likely to be resolved through conciliation, it attempts conciliation, but if the case fails to be resolved, it renders a labor tribunal decision (meaning a decision that is necessary for resolving a civil dispute arising from individual labor relations in accordance with the circumstances of the case while taking into account the rights and interests between the parties; the same shall apply hereinafter) (such procedures shall hereinafter be referred to as "labor tribunal proceedings"), thereby achieving prompt, proper, and effective dispute resolution in accordance with the actual circumstances of the dispute.

## (Jurisdiction)

Article 2 A case in labor tribunal proceedings (hereinafter referred to as a "labor tribunal case") shall be under the jurisdiction of the district court that has jurisdiction over the location of the domicile, residence, business office, or any other office of the respondent; the district court that has jurisdiction over the location of the employer's place of business at which the employee actually works or at which he/she worked most recently based on the labor relations between the employee and the employer from which the civil dispute arising from individual labor relations arose; or the district court determined by an agreement of the parties.

## (Transfers)

Article 3 (1) When the court finds that the whole or a part of a labor tribunal case is not under its jurisdiction, the court shall, upon petition or by its own authority, transfer the case to a court with jurisdiction.

(2) Even where a labor tribunal case brought before the court is under its jurisdiction, when the court finds it appropriate in order to process the case, the court may, upon petition or by its own authority, transfer the whole or part

of the labor tribunal case to another court with jurisdiction.

(Agents)

Article 4 (1) In labor tribunal proceedings, except for an agent who can perform judicial acts under laws and regulations, no person other than an attorney may serve as an agent; provided, however, that when the court finds it necessary and appropriate in order to protect the rights and interests of the parties and ensure smooth progress in labor tribunal proceedings, the court may permit a person who is not an attorney to serve as an agent.

(2) The court may rescind the permission granted under the provisions of the proviso to the preceding paragraph.

(Petitions for Labor Tribunal Proceedings)

Article 5 (1) In order to achieve the resolution of a civil dispute arising from individual labor relations, a party may file with the court a petition for labor tribunal proceedings.

(2) The petition set forth in the preceding paragraph shall be filed by means of a document in which are stated the object of and grounds for the petition.

(Dismissal of Unlawful Petitions)

Article 6 When the court finds that a petition for labor tribunal proceedings is unlawful, the court shall dismiss the petition by a decision.

(Labor Tribunals)

Article 7 The court shall conduct labor tribunal proceedings through a labor tribunal composed of one labor tribunal judge and two labor tribunal members.

(Designation of Labor Tribunal Judges)

Article 8 The labor tribunal judge shall be designated by the district court from among its judges.

(Labor Tribunal Members)

Article 9 (1) Labor tribunal members shall, as provided for by this Act, participate in the labor tribunal proceedings held by the labor tribunal and perform the duties necessary for processing the labor tribunal case from a neutral and fair standpoint.

(2) Labor tribunal members shall be appointed from among persons who have expert knowledge and experience in labor relations.

(3) Labor tribunal members shall serve part-time, and in addition to what is provided for in the preceding paragraph, the necessary matters concerning their appointment and dismissal shall be prescribed by the Rules of the

Supreme Court.

- (4) Labor tribunal members shall be paid an allowance as separately provided by law and shall also be paid travel expenses, a daily allowance, and lodging expenses, at amounts specified by the Rules of the Supreme Court.

(Designation of Labor Tribunal Members)

Article 10 (1) The labor tribunal members that are to compose a labor tribunal shall be designated by the court for each labor tribunal case.

- (2) When designating labor tribunal members pursuant to the provisions of the preceding paragraph, the court shall comprehensively take into account the knowledge and experience of the labor tribunal members and any other relevant circumstances, and give consideration so as to ensure an appropriate composition of labor tribunal members in the labor tribunal.

(Disqualification of Labor Tribunal Members)

Article 11 The provisions of Articles 23, 25, and 26 of the Code of Civil Procedure (Act No. 109 of 1996) shall apply mutatis mutandis to the disqualification of labor tribunal members.

(Resolutions)

Article 12 (1) Resolutions by a labor tribunal shall be adopted in accordance with the majority opinion.

- (2) A labor tribunal's deliberations shall be confidential.

(Leadership in Labor Tribunal Proceedings)

Article 13 Labor tribunal proceedings shall be led by the labor tribunal judge.

(Dates for Labor Tribunal Proceedings)

Article 14 The labor tribunal judge shall specify the dates for labor tribunal proceedings and summon the persons concerned with the case to appear.

(Prompt Proceedings)

Article 15 (1) The labor tribunal shall hear the statements of the parties and arrange issues and evidence promptly.

- (2) Except where there are special circumstances, labor tribunal proceedings shall be concluded by the end of the third date for proceedings.

(Closed Proceedings)

Article 16 Labor tribunal proceedings shall not be open to the public; provided, however, that the labor tribunal may permit observation by a person whom it considers to be appropriate.

(Examination of the Evidence)

Article 17 (1) The labor tribunal may study facts on its own authority, and may examine evidence that it considers necessary upon petition or by its own authority.

(2) Examination of evidence shall be governed by the rules of civil procedure.

(Burden of Costs for Successful Conciliation)

Article 18 Where conciliation is successful, each party shall bear, among the costs that he/she has incurred, those for which there are no provisions on the burden of costs in the terms of conciliation.

(Conclusion of Proceedings)

Article 19 When concluding proceedings, the labor tribunal shall declare to that effect on the date of the labor tribunal proceedings.

(Labor Tribunal Decisions)

Article 20 (1) The labor tribunal shall render a labor tribunal decision based on the rights and interests between the parties that were found as a result of proceedings, and in light of the developments in the labor tribunal proceedings.

(2) Through a labor tribunal decision, the labor tribunal may confirm the relationship of the parties' rights to one another, order the payment of monies, delivery of objects, or any other payment of economic benefits, and may specify other matters that are considered to be appropriate for the resolution of the civil dispute arising from individual labor relations.

(3) A labor tribunal decision shall be made by preparing a written tribunal decision in which the main text of the decision and a summary of the reasons therefor have been entered.

(4) The written tribunal decision set forth in the preceding paragraph shall be served upon the parties. In this case, the labor tribunal decision shall take effect when it has been served upon the parties.

(5) With regard to the service of a written tribunal decision under the provisions of the preceding paragraph, the provisions of Part I, Chapter V, Section 4 of the Code of Civil Procedure (excluding Article 104 and Articles 110 through 113) shall apply *mutatis mutandis*.

(6) When the labor tribunal finds it appropriate, notwithstanding the provisions of paragraph (3), it may render a labor tribunal decision by making an oral announcement of the main text of the labor tribunal decision and a summary of the reasons therefor on a date for labor tribunal proceedings on which all parties appear, in lieu of preparing a written tribunal decision. In this case, the labor tribunal decision shall take effect when it has been announced.

(7) When a labor tribunal decision is made under the provisions of the first sentence of the preceding paragraph, the court shall have a court clerk enter into the record the main text of the labor tribunal decision and a summary of the reasons.

(Filing of Challenges)

Article 21 (1) A party may file a challenge with the court against a labor tribunal decision within an unextendable period of two weeks from the day on which he/she was served with the written tribunal decision under the provisions of paragraph (4) of the preceding Article or the day on which the labor tribunal decision under the provisions of paragraph (6) of said Article was announced.

(2) When the court finds that the filing of a challenge is unlawful, the court shall issue a decision to dismiss the challenge without prejudice.

(3) When a lawful challenge has been filed, the labor tribunal decision shall cease to be valid.

(4) If no lawful challenge is filed, the labor tribunal decision shall have the same effect as a judicial settlement.

(5) In the case referred to in the preceding paragraph, each party shall bear, among the costs that he/she incurred, those for which there are no provisions on burden of costs in the labor tribunal decision.

(Constructive Filing of an Action)

Article 22 (1) When a lawful challenge is filed against a labor tribunal decision, an action on the claim made in the petition for labor tribunal proceedings shall be deemed to have been filed with the district court before which the labor tribunal case was pending when the labor tribunal decision was made, at the time that the petition for labor tribunal proceedings was filed.

(2) A case for which an action is deemed to have been filed pursuant to the provisions of the preceding paragraph shall be under the jurisdiction of the district court set forth in said paragraph.

(3) When an action is deemed to have been filed pursuant to the provisions of paragraph (1), for the purpose of the application of the provisions of Articles 137, 138, and 158 of the Code of Civil Procedure, the document set forth in Article 5, paragraph (2) shall be deemed to be a complaint.

(Revocation of a Labor Tribunal Decision)

Article 23 (1) Where a written tribunal decision is to be served pursuant to the provisions of Article 20, paragraph (4), when any of the following grounds exists, the court shall issue a decision to revoke the labor tribunal decision:

(i) a party's domicile, residence or any other place where the party is to be

served is unknown;

- (ii) it is impossible to serve the relevant party pursuant to the provisions of Article 107, paragraph (1) of the Code of Civil Procedure as applied mutatis mutandis pursuant to Article 20, paragraph (5);
  - (iii) with regard to service that is to take place in a foreign state, it is impossible to employ the method prescribed in Article 108 of the Code of Civil Procedure as applied mutatis mutandis pursuant to Article 20, paragraph (5), or it is found to be impossible to serve the relevant party by such method; or
  - (iv) even after six months have elapsed since service was entrusted to the competent government agency of a foreign state pursuant to the provisions of Article 108 of the Code of Civil Procedure as applied mutatis mutandis pursuant to Article 20, paragraph (5), no document certifying that service has been sent.
- (2) The provisions of the preceding Article shall apply mutatis mutandis to cases where a labor tribunal decision is revoked pursuant to the provisions of the preceding paragraph.

(Closing of a Labor Tribunal Case Without a Labor Tribunal Decision)

Article 24 (1) When a labor tribunal finds that conducting labor tribunal proceedings is unsuitable to the prompt and proper resolution of the dispute due to the nature of the case, it may close the labor tribunal case.

- (2) The provisions of Article 22 shall apply mutatis mutandis to cases where a labor tribunal case is closed pursuant to the provisions of the preceding paragraph. In this case, the phrase "before which the labor tribunal case was pending when the labor tribunal decision was made" in paragraph (1) of said Article shall be deemed to be replaced with "before which the labor tribunal case was pending when the labor tribunal case was closed."

(Burden of Costs)

Article 25 Where a labor tribunal case is closed (excluding the cases prescribed in Article 18 and Article 21, paragraph (5)), and when the court finds it necessary, the court may, upon petition or by its own authority, issue a decision on the burden of costs for the proceedings concerning the labor tribunal case.

(Inspection of Case Records)

Article 26 (1) The parties to the case and any third party who has made a prima facie showing of his/her interest may make a request of a court clerk in order to inspect or copy the record of the labor tribunal case, to be issued an authenticated copy, transcript, or extract of such record, or to be issued a

certificate of matters concerning the labor tribunal case.

(2) The provisions of Article 91, paragraphs (4) and (5) and Article 92 of the Code of Civil Procedure shall apply mutatis mutandis to the record set forth in the preceding paragraph.

(Suspension of Court Proceedings)

Article 27 If an action is pending with regard to a case for which a petition for labor tribunal proceedings has been filed, the court in charge of the case may suspend court proceedings in the action until the labor tribunal case has been closed.

(Immediate Appeal)

Article 28 An immediate appeal may be filed against a decision issued under the provisions of Article 3, paragraphs (1) and (2), Article 6, Article 21, paragraph (2), Article 23, paragraph (1), and Article 25.

(Mutatis Mutandis Application of the Non-Contentious Cases Procedures Act and the Civil Conciliation Act)

Article 29 With regard to labor tribunal cases, the provisions of Part I of the Non-Contentious Cases Procedures Act (Act No. 14 of 1898) (excluding Articles 3, 6, and 7, the part of Article 10 which applies mutatis mutandis the provisions of laws and regulations concerning civil procedure that are related to testimony of a witness and expert testimony, Articles 11, 13, 15, 21, and 32) and the provisions of Articles 11, 12, 16, and 36 of the Civil Conciliation Act (Act No. 222 of 1951) shall be applied mutatis mutandis. In this case, in the Non-Contentious Cases Procedures Act, the phrase "costs for pre-trial proceedings and for announcement of a judicial decision" in Article 26 shall be deemed to be replaced with "costs for proceedings concerning labor tribunal cases"; in the Civil Conciliation Act, the phrases "of conciliation," "conciliation committee," and "conciliation proceedings" in Article 11 shall be deemed to be replaced with "of labor tribunal proceedings," "labor tribunal," and "labor tribunal proceedings," respectively; the phrases "conciliation committee," "for conciliation," and "measures prior to conciliation" in Article 12, paragraph (1) shall be deemed to be replaced with "labor tribunal," "for conciliation or a labor tribunal decision," and "measures prior to conciliation or a labor tribunal decision," respectively; and the phrase "the preceding two Articles" in Article 36, paragraph (1) shall be deemed to be replaced with "Articles 31 and 32 of the Labor Tribunal Act (Act No. 45 of 2004)."

(Rules of the Supreme Court)

Article 30 In addition to what is provided for in this Act, the necessary matters

concerning labor tribunal proceedings shall be prescribed by the Rules of the Supreme Court.

(Penalty for Nonappearance)

Article 31 If an interested party to a case who has been summoned to appear by the labor tribunal judge does not appear and is without justifiable grounds for his/her nonappearance, the court shall sentence him/her to a non-criminal fine of not more than 50,000 yen.

(Penalty for Noncompliance with Measures)

Article 32 If a party does not comply with the measures ordered under the provisions of Article 12 of the Civil Conciliation Act as applied mutatis mutandis pursuant to Article 29 and is without justifiable grounds for his/her noncompliance, the court shall sentence him/her to a non-criminal fine of not more than 100,000 yen.

(Criminal Disclosure of Confidential Deliberations)

Article 33 If a labor tribunal member or a person who was a labor tribunal member divulges any matters with respect to the proceedings of deliberations, the opinions of the labor tribunal judge and labor tribunal members, or the number of opinions constituting the majority and the minority, and is without justifiable grounds for his/her disclosure, he/she shall be sentenced to a fine of not more than 300,000 yen.

(Criminal Disclosure of a Personal Secret)

Article 34 If a labor tribunal member or a person who was a labor tribunal member divulges any personal secret that has come to his/her knowledge in relation to the matters handled thereby in the course of his/her duties, and is without justifiable grounds for his/her disclosure, he/she shall be sentenced to imprisonment with work for not more than one year or to a fine of not more than 500,000 yen.