

Act on Securing the Proper Operation of Worker Dispatching Businesses and Protecting Dispatched Workers

(Act No. 88 of July 5, 1985)

Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is to take measures for securing proper operation of a worker dispatching business for the proper adjustment of labor demand and supply, in conjunction with the Employment Security Act (Act No. 141 of 1947), as well as measures for protecting dispatched workers, and thereby to contribute to the stability of employment and otherwise to the promotion of the welfare of dispatched workers.

(Definitions)

Article 2 In this Act, the meanings of the terms set forth in the following items are as prescribed respectively in those items.

- (i) the term "worker dispatch" as used in this Act means having a worker employed by one person so as to be engaged in work for another person under the instructions of the latter, while maintaining the worker's employment relationship with the former, excluding cases where the former agrees with the latter that such worker is to be employed by the latter.
- (ii) the term "dispatched worker" as used in this Act means a worker, employed by an employer, who becomes the subject of worker dispatch.
- (iii) the term "worker dispatching business" as used in this Act means carrying out worker dispatch on a regular basis.
- (iv) the term "employment placement dispatch" as used in this Act means worker dispatch through which employment placement, with regard to the dispatched worker to whom that dispatch pertains and the person receiving the provision of the relevant worker dispatching services (hereinafter referred to as a "client," except in Chapter III, Section 4) pertaining to the dispatched worker, is carried out or is prepared to be carried out by a person that has received a license under Article 5, paragraph (1) (hereinafter referred to as a "dispatching business operator"), either before or after the commencement of the provision of the worker dispatching services, after having received a license or submitted a written notice under the provisions of the Employment Security Act and other laws; this includes that through which the employment of the dispatched worker by the client through

employment placement is agreed between the dispatched worker and the client prior to the conclusion of the provision of the relevant worker dispatching business.

(Exclusion from Application for Mariners)

Article 3 This Act does not apply to mariners prescribed in Article 6, paragraph (1) of the Mariners Employment Security Act (Act No.130 of 1948).

Chapter II Measures for Securing the Proper Operation of Worker Dispatching Business

Section 1 Scope of Designated Work

- Article 4 (1) It is prohibited for any person to carry out a worker dispatching business with regard to operations falling under any of the following items:
- (i) port transport work (which means port transport work prescribed in Article 2, item (ii) of the Port Labor Act (Act No. 40 of 1988) and work specified by Cabinet Order as work corresponding to port transport work carried out at ports other than those prescribed in item (i) of the same Article);
 - (ii) construction work (which means work relating to civil engineering, construction, the building, remodeling, maintenance, repairing, renovation, wrecking, or dismantling of a structure, or work preparatory to any of these);
or
 - (iii) work set forth in each item of Article 2, paragraph (1) of the Security Services Act (Act No. 117 of 1972) and other work designated by Cabinet Order as work for the proper performance of which it is considered inappropriate to allow dispatched workers to be engaged therein through worker dispatch carried out in the course of trade (simply referred to as "worker dispatch" in the following Section and Article 23, paragraphs (2), (4), and (5)).
- (2) Before drafting a proposal for the establishment or amendment of Cabinet Order referred to in item (iii) of the preceding paragraph, the Minister of Health, Labor and Welfare must obtain the opinion of the Labor Policy Council.
- (3) A person that receives the provision of a worker dispatching services from another person in control of the business of dealing with a worker dispatching business must not have, under the instructions of the former, any dispatched worker under the relevant worker dispatch arrangement engage in work falling under any of the items of paragraph (1).

Section 2 License for Worker Dispatching Business

(License for Worker Dispatching Business)

- Article 5 (1) Any person that intends to carry out a worker dispatching business must obtain a license from the Minister of Health, Labor and Welfare.
- (2) Any person that wishes to be granted the license referred to in the preceding paragraph must submit to the Minister of Health, Labor and Welfare a written application form stating the following information:
- (i) the applicant's name and address, and, in the case of a corporation, the name of its representative;
 - (ii) in the case of a corporation, the names and addresses of its officers;
 - (iii) the name and location of the place of business at which the worker dispatching business is carried out; and
 - (iv) the name and address of the person responsible for the relevant business operator's dispatching business as appointed pursuant to the provisions of Article 36.
- (3) The written application referred to in the preceding paragraph must be accompanied by a business plan pertaining to the relevant worker dispatching business and for each place of business at which a worker dispatching business is carried out, and other documents specified by Order of the Ministry of Health, Labor and Welfare.
- (4) In the business plan referred to in the preceding paragraph, the number of dispatched workers under the arrangement of the relevant worker dispatching business, the amount of the fee for dispatching, and other particulars pertaining to the worker dispatch must be stated for each place of business at which a worker dispatching business is carried out, pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare.
- (5) Before granting the license referred to in paragraph (1), the Minister of Health, Labor and Welfare must obtain the opinion of the Labor Policy Council.

(Reasons for Disqualification for License)

Article 6 A person that falls under any of the following items may not receive the license referred to in paragraph (1) of the preceding Article:

- (i) any person that was sentenced to imprisonment without work or heavier punishment, or to a fine under the provisions of this Act or the provisions of other Acts relating to labor specified by Cabinet Order (excluding the provisions referred to in the following item) or the provisions of the Act on Prevention of Unjust Acts by Organized Crime Group Members (Act No. 77 of 1991) (excluding the provisions of Article 50 (limited to the part pertaining to item (ii)) and Article 52 of the same Act) or for having committed an offense referred to in Article 204, 206, 208, 208-2, 222, or 247 of the Penal Code (Act No. 45 of 1907), in the Act on Punishment of Physical Violence and Others (Act No. 60 of 1926), or in Article 73-2, paragraph (1) of the Immigration Control and Refugee Recognition Act (Cabinet Order No. 319 of 1951), where

- five years have not elapsed counting from the day on which the execution of the sentence was completed or the day on which the person becomes no longer subject to the execution of such sentence;
- (ii) any person sentenced to a fine under the provisions of Article 208, 213-2, or 214, paragraph (1) of the Health Insurance Act (Act No. 70 of 1922), Article 156, 159, or 160, paragraph (1) of the Mariners Insurance Act (Act No. 73 of 1939), the first sentence of Article 51 or Article 54, paragraph (1) (limited to the part pertaining to the provisions of the first sentence of Article 51) of the Industrial Accident Compensation Insurance Act (Act No. 50 of 1947), Article 102, 103-2, or 104, paragraph (1) (limited to the part pertaining to the provisions of Article 102 or 103-2) of the Employees' Pension Insurance Act (Act No. 115 of 1954), the first sentence of Article 46 or Article 48, paragraph (1) (limited to the part pertaining to the provisions of the first sentence of Article 46) of the Act on the Collection, etc. of Insurance Premiums of Labor Insurance (Act No. 84 of 1969), or Article 83 or 86 (limited to the part pertaining to the provisions of Article 83) of the Employment Insurance Act (Act No. 116 of 1974), where five years have not elapsed counting from the day on which the execution of the sentence was completed or the sentence became no longer executable;
 - (iii) any person specified by Order of the Ministry of Health, Labor and Welfare as being unable to properly carry out a worker dispatching business due to a mental or physical disorder;
 - (iv) any person that has received an order commencing bankruptcy proceedings and has yet to have the person's rights restored;
 - (v) any person whose license for a worker dispatching business was rescinded pursuant to the provisions of Article 14, paragraph (1) (excluding item (i) thereof), where five years have not elapsed counting from the date of the rescission;
 - (vi) if the person concerned is a corporation whose license for a worker dispatching business was rescinded pursuant to the provisions of Article 14, paragraph (1) (if the license was rescinded pursuant to the provisions of item (i) of the same paragraph, this is limited to the case where the corporation falls under item (i) or (ii)), any person who was an officer (referring to an employee, director, or executive officer that executes business, or any person in an equivalent position, including an employee, director, or executive officer that executes business for the corporation, or a person that is deemed to have an equivalent or higher ascendancy to these persons; hereinafter the same applies in this Article) of the corporation when the cause of the rescission arose, for whom five years have not elapsed counting from the date of the rescission;
 - (vii) any person that has submitted a notification of the discontinuance of a

- worker dispatching business under the provisions of Article 13, paragraph (1) (excluding persons that have adequate grounds for the discontinuance of the worker dispatching business) within the period from the day of receiving notice under the provisions of Article 15 of the Administrative Procedure Act (Act No. 88 of 1993) with regard to the disposition of rescission of a license for a worker dispatching business under the provisions of Article 14, paragraph (1) to the date on which the disposition is made or the day on which the disposition is decided not to be made, where five years have not elapsed counting from the date of the notification;
- (viii) if the person concerned is a corporation that has submitted a notification of the discontinuance of a worker dispatching business under the provisions of Article 13, paragraph (1) within the period prescribed in the preceding item, any person who was an officer of the corporation (excluding the case where the corporation has adequate grounds for the discontinuance of the relevant worker dispatching business) within 60 days before the day of notice referred to in the same item, for whom five years have not elapsed counting from the date of the notification;
 - (ix) any member of an organized crime group prescribed in Article 2, item (vi) of the Act on Prevention of Unjust Acts by Organized Crime Group Members (hereinafter referred to as an "organized crime group member" in this item), or any person for whom five years have not elapsed from the day on which the person became no longer a member of an organized crime group (hereinafter referred to as an "organized crime group member, etc." in this Article);
 - (x) any minor who does not possess the same capacity to carry out business as a person of an age of majority, and whose statutory agent falls under any of the preceding items or the following items;
 - (xi) any corporation any of whose officers falls under any of the preceding items;
 - (xii) any person whose business activities are controlled by an organized crime group member, etc.; or
 - (xiii) any person that is likely to engage with an organized crime group member, etc. in the person's business or employ an organized crime group member, etc. as an assistant for the person's business.

(Criteria for Granting a License)

Article 7 (1) The Minister of Health, Labor and Welfare must not grant a license, unless the Minister finds that the application for a license referred to in Article 5, paragraph (1) conforms to the criteria set forth below:

- (i) that the business concerned is not to be carried out for the purpose of providing worker dispatching business solely to specified persons (excluding

cases specified by Order of the Ministry of Health, Labor and Welfare as those in which it is found necessary to continue the employment of those workers for whom securing employment opportunities is considered to be particularly difficult);

(ii) that the applicant conforms to the criteria specified by Order of the Ministry of Health, Labor and Welfare as a person with a sufficient ability to properly manage the employment of dispatched workers for the relevant service;

(iii) that necessary measures are taken to properly manage personal information (which means information concerning an individual by which a specific individual may be identified (including information from which a specific individual can be identified when collated with other information); the same applies hereinafter) and to protect the confidential information of dispatched workers, etc.; and

(iv) beyond what is set forth in the preceding two items, that the applicant has a sufficient ability to carry out the relevant service appropriately.

(2) When the Minister of Health, Labor and Welfare does not to grant the license referred to in Article 5, paragraph (1), the Minister must notify the applicant to that effect, without delay, indicating the grounds therefor.

(License Certificate)

Article 8 (1) The Minister of Health, Labor and Welfare, after granting the license referred to in Article 5, paragraph (1), must issue license certificates in accordance with the number of places of business at which the relevant worker dispatching business is carried out, pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare.

(2) Any person that has been issued license certificates must keep them at each place of business at which the worker dispatching business is carried out and produce the certificates to persons concerned at their request.

(3) If an issued license certificate is lost or destroyed, the person that received issuance of that license certificate must promptly notify the Minister of Health, Labour and Welfare to that effect and receive a reissued license certificate..

(License Conditions)

Article 9 (1) The license set forth in Article 5, paragraph (1) may be granted under certain conditions, which may be subsequently altered.

(2) The conditions provided for in the preceding paragraph must be limited to the minimum required in view of the purpose of the license concerned or for ensuring the reliable implementation of particulars related to the license concerned, and must not be such as to impose any undue obligation upon the person that is granted the license.

(Validity Period of License)

- Article 10 (1) The validity period of the license provided for in Article 5, paragraph (1) is three years counting from the date of issuance.
- (2) Any person that wishes to continue to carry out the worker dispatching business covered by the license prescribed in the preceding paragraph after the expiration of the validity period of the license (where the validity period of the license has been renewed pursuant to the provisions of this paragraph, the renewed validity period of the license) must have the validity period of the license renewed pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare.
- (3) When an application for renewal of the validity period of a license as prescribed in the preceding paragraph is submitted, and if the Minister of Health, Labor and Welfare finds that the application is not in conformity with the criteria set forth in each item of Article 7, paragraph (1), the Minister must not renew the validity period of the license concerned.
- (4) The validity period of the license referred to in Article 5, paragraph (1) when renewed pursuant to the provisions of paragraph (2) is five years counting from the day following the date of expiration of the validity period of the license before the renewal.
- (5) The provisions of Article 5, paragraphs (2) through (4), Article 6 (excluding items (v) through (viii) thereof), and Article 7, paragraph (2) apply mutatis mutandis to the renewal of the valid period of a license under paragraph (2).

(Notification of Change)

- Article 11 (1) If there has been a change in any information provided in each item of Article 5, paragraph (2), a dispatching business operator must notify the Minister of Health, Labor and Welfare to that effect without delay. In this case, if the information subject to the relevant change relates to the establishment of any new place of business for carrying out a worker dispatching business, the notification must be accompanied by a business plan pertaining to that place of business and other documents specified by Order of the Ministry of Health, Labor and Welfare.
- (2) The provisions of Article 5, paragraph (4) apply mutatis mutandis to the business plan referred to in the preceding paragraph.
- (3) Upon receiving the notification of changes pertaining to the establishment of any new place of business for carrying out a worker dispatching business filed pursuant to the provisions of paragraph (1), the Minister of Health, Labor and Welfare must issue a license certificate in accordance with the number of places of business to be newly established, pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare.

(4) When a dispatching business operator submits a notification under paragraph (1), and any particular pertaining to that notification falls under any information stated in the license certificate, the operator must apply for updating of the license certificate pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare.

Article 12 Deleted

(Discontinuance of Business)

Article 13 (1) A dispatching business operator, upon having discontinued a worker dispatching business, must notify without delay, the Minister of Health, Labor and Welfare to that effect pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare.

(2) When a notification is submitted under the provisions of the preceding paragraph, the license referred to in Article 5, paragraph (1) ceases to be effective.

(Rescission of License)

Article 14 (1) The Minister of Health, Labor and Welfare may rescind a license granted to a dispatching business operator pursuant to the provisions of Article 5, paragraph (1), if the operator falls under any of the following items:

(i) if the operator falls under any of the items (excluding items (v) through (viii)) of Article 6;

(ii) if the operator violates the provisions of this Act (excluding the provisions of Article 30, paragraph (1) and Section 4 of the following Chapter as applied pursuant to Articles 23, paragraph (3), Article 23-2, and Article 30, paragraph (2) following the replacement of terms) or the Employment Security Act, or orders or dispositions based on these provisions;

(iii) if the operator violates any conditions attached to the license pursuant to the provisions of Article 9, paragraph (1); or

(iv) if the operator violates the provisions of Article 30, paragraph (1) as applied pursuant to Articles 23, paragraph (3), Article 23-2, and Article 30, paragraph (2) following the replacement of terms despite having received instructions under the provisions of Article 48, paragraph (3).

(2) If a dispatching business operator falls under item (ii) or (iii) of the preceding paragraph, the Minister of Health, Labor and Welfare may order the operator to suspend the whole or part of the operations of the relevant worker dispatching business for a designated period of time.

(Prohibition of Name Lending)

Article 15 A dispatching business operator must not allow any other person to

conduct a worker dispatching business under the operator's own name.

Articles 16 through 22 Deleted

Section 3 Auxiliary Provisions

(Business Reports)

- Article 23 (1) A dispatching business operator, pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare, must prepare a business report and settlement of accounts associated with a worker dispatching business that the operator carries out and for each place of business at which the worker dispatching business is carried out, and submit them to the Minister of Health, Labor and Welfare.
- (2) A business report referred to in the preceding paragraph must contain the number of dispatched workers, the number of persons that have received the relevant worker dispatching business, the amount of the fee for the worker dispatch, and other particulars pertaining to the worker dispatch, for each place of business at which the worker dispatching business has been carried out, pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare.
- (3) A dispatching business operator must report the ratio of dispatch to the operator's associated clients prescribed in the following Article to the Minister of Health, Labor and Welfare pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare.
- (4) If a dispatching business operator intends to carry out worker dispatch through which a dispatched worker will be engaged in work at a place of business or other facility located outside the enforcement area of this Act (hereinafter referred to as "overseas dispatch"), the operator must notify the Minister of Health, Labor and Welfare to that effect in advance pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare.
- (5) A dispatching business operator, pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare and for each place of business at which the operator carries out a worker dispatching business, must provide information on the number of dispatched workers associated with the service, the number of persons that have received the worker dispatching business, the ratio obtained by first subtracting the average wage of dispatched workers from the average of the fee for worker dispatch, then dividing that amount by the average of the fee for the relevant worker dispatch as calculated pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare, particulars pertaining to educational training, and other particulars specified by Order of the Ministry of Health, Labor and Welfare as those that should be

communicated in advance to persons concerned with regard to the operations of the worker dispatching business.

(Restricting Worker Dispatch to Associated Clients of Dispatching Business Operators)

Article 23-2 When a dispatching business operator carries out worker dispatch for a person specified by Order of the Ministry of Health, Labor and Welfare as a person that has a special relationship with the dispatching business operator (hereinafter referred to as an "associated client" in this Article), including persons that can substantially control the management of the dispatching business operator, the dispatching business operator must ensure that the ratio of dispatch to the operator's associated client (referring to the ratio obtained by dividing the total working hours of work under a dispatching arrangement (referring to work by dispatched workers being dispatched; the same applies hereinafter) for the associated client performed by dispatched workers employed by the dispatching business operator in a business year by the total working hours of all work under a dispatching arrangement performed by dispatched workers employed by the dispatching business operator in the business year as calculated pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare) is not more than 80 percent.

(Mutatis Mutandis Application of Article 20 of the Employment Security Act)

Article 24 The provisions of Article 20 of the Employment Security Act apply mutatis mutandis to a worker dispatching business. In this case, in paragraph (1) of the same Article, the term "public employment security offices" is deemed to be replaced with "dispatching business operators prescribed in Article 2, item (iv) of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers (hereinafter simply referred to as a "dispatching business operator")" and the term "must not introduce job seekers to a place of business" is deemed to be replaced with "must not carry out worker dispatch prescribed in item (i) of the same Article (hereinafter simply referred to as "worker dispatch") (where worker dispatch is actually carried out for the place of business at the time of the relevant strike or lock-out, excluding that worker dispatch and any arrangement equivalent thereto)"; in paragraph (2) of the same Article, the term "unlimited introduction of job seekers" is deemed to be replaced with "unlimited worker dispatch", the term "the public employment security office must not introduce job seekers to that place of business" is deemed to be replaced with "the public employment security office must notify the dispatching business operator to that effect, and the dispatching business operator, having received the notification, must not carry out worker dispatch for that place of business (where worker dispatch is

actually carried out for that place of business at the time of the notification, excluding the relevant worker dispatch and any arrangement equivalent thereto)", the term "workers normally employed" is deemed to be replaced with "workers (including workers having been engaged in work under a worker dispatch arrangement) normally employed", and the term "the introduction of workers" is deemed to be replaced with "the provision of worker dispatching business."

(Prohibition of Receiving Worker Dispatching Business from a Person in Control of the Business of Carrying Out a Worker Dispatching Business Other than a Dispatching Business Operator)

Article 24-2 Any person that receives a worker dispatching services must not receive worker dispatching business from any person in control of the business of carrying out a worker dispatching business other than a dispatching business operator.

(Handling of Personal Information)

Article 24-3 (1) With regard to collecting, retaining, or using personal information of workers with regard to worker dispatch, a dispatching business operator must collect personal information of workers only within the scope necessary for achieving the purpose of the business (including employment placement when employment placement dispatch is carried out; the same applies in the following Article) of the operator and retain and use that information only within the scope of the purpose of the collection; provided, however, that this does not apply where consent has been given by the worker concerned or where there are other justifiable reasons.

(2) A dispatching business operator must take measures necessary for properly managing the personal information of workers.

(Obligation of Confidentiality)

Article 24-4 A dispatching business operator, as well as this operator's agents, employees, and other workers, must not disclose to another person any secret learned with regard to any information they handled in the course of business, without legitimate grounds. The same applies to any person that has ceased to be a dispatching business operator or an agent, employee, or other worker thereof.

(Special Consideration to Be Given in Application of the Act)

Article 25 In applying the provisions of this Act pertaining to a worker dispatching business, the Minister of Health, Labor and Welfare must take into consideration employment practices that are considered to contribute to the

effective demonstration of workers' abilities and their employment security throughout their working lives, as well as the principle that work under a dispatching arrangement should be ad hoc and temporary, and, at the same time, must give consideration so that the adjustment of labor demand and supply by means of worker dispatching business is in harmony with the adjustment of labor demand and supply under the other systems specified in the Employment Security Act.

Chapter III Measures for Protecting Dispatched Workers

Section 1 Worker Dispatch Contract

(Content of Contract)

Article 26 (1) The parties to a worker dispatch contract (meaning a contract by which one party to the contract agrees to carry out worker dispatch to the other; the same applies hereinafter) must specify the following particulars, as well as the number of workers to be dispatched, in accordance with the varying contents of the specified particulars, when concluding the contract concerned, pursuant to the provisions of Order of the Minister of Health, Labor and Welfare:

- (i) the content of the work which the dispatched workers are to engage in;
- (ii) the name and location of the place of business at which the dispatched workers are to engage in the work under the worker dispatch arrangement, the locations of the client's places of business or other places at which the work under a dispatching arrangement is to be performed, and organizational units (referring to segments of worker assignment specified by Order of the Ministry of Health, Labor and Welfare as those where persons empowered in the course of duties to give instructions on the performance of the work of assigned workers have direct authority over the allocation of work to those workers; the same applies hereinafter);
- (iii) particulars relating to the person who directly instructs the dispatched workers, in the course of their work, on behalf of the person receiving worker dispatching services;
- (iv) the period of worker dispatch and the days on which the work under a dispatching arrangement is to be performed;
- (v) the hours of starting and ending the work under a dispatching arrangement and breaks periods;
- (vi) particulars relating to safety and health;
- (vii) particulars relating to the handling of complaints submitted by the dispatched workers;
- (viii) particulars relating to measures necessary for ensuring the employment security of the dispatched workers to be taken at the time of termination of

- the worker dispatch contract, such as securing new employment opportunities for the dispatched workers, and measures relating to bearing the costs in securing necessary funds to pay the dispatched workers an allowance for absence from work (referring to the allowance which is to be paid by an employer pursuant to the provisions of Article 26 of the Labor Standards Act (Act No. 49 of 1947); the same applies in Article 29-2);
- (ix) if the worker dispatch contract is for employment placement dispatch, particulars relating to the employment placement dispatch such as the contents of the work assigned by the employment placement and relevant working conditions; and
- (x) beyond what is set forth in each of the preceding items, particulars specified by Order of the Ministry of Health, Labor and Welfare.
- (2) In addition to what is prescribed in the preceding paragraph, a dispatching business operator, when concluding a worker dispatch contract for overseas dispatch, must provide that the person receiving that overseas dispatching business should take the following measures, pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare:
- (i) appointment of a responsible person acting for the client, as referred to in Article 41;
- (ii) preparation of the client's record of management, as referred to in Article 42, paragraph (1); entry in that record of the particulars set forth in each item of the same paragraph; and notification in conformity with the conditions specified by Order of the Ministry of Health, Labor and Welfare, as referred to in paragraph (3) of the same Article; and
- (iii) other measures specified by Order of the Ministry of Health, Labor and Welfare, which are necessary for the work under a dispatching arrangement concerned to be conducted appropriately.
- (3) In concluding a worker dispatch contract pursuant to the provisions of paragraph (1), the dispatching business operator must clearly indicate to the counterparty to the contract, in advance, that the operator has obtained the license referred to in Article 5, paragraph (1).
- (4) A person that intends to receive worker dispatching (excluding worker dispatch that falls under any of the items of Article 40-2, paragraph (1); the same applies in the following paragraph) business from a dispatching business operator based on a new worker dispatch contract, in concluding the worker dispatch contract concerned pursuant to the provisions of paragraph (1), must notify the dispatching business operator, in advance, of the first day on which receiving worker dispatching business will be in conflict with the provisions of paragraph (1) of the same Article with regard to work at the place of business of the person that intends to receive worker dispatching business or other places at which the work under a dispatching arrangement is to be performed

from the day on which the provision of those worker dispatching business commences.

- (5) If a dispatching business operator does not receive a notice under the provisions of the preceding paragraph from the person who intends to receive worker dispatching business based on a new worker dispatch contract, the operator must not conclude the worker dispatch contract with that person with regard to work at the place of business of the person or other places at which work under a dispatching arrangement is required.
- (6) A person that intends to receive worker dispatching business (excluding employment placement dispatch), in concluding a worker dispatch contract, must endeavor not to commit any act intended to specify workers to be dispatched under the worker dispatch arrangement based on the worker dispatch contract concerned.
- (7) A person that intends to receive a worker dispatching business , in concluding a worker dispatch contract pursuant to the provisions of paragraph (1), must provide the operator in advance with information specified by Order of the Ministry of Health, Labor and Welfare, including information on the wages and other treatment of comparable workers, for each type of the work in which dispatched workers are to be engaged under the relevant worker dispatching arrangement, pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare.
- (8) The term "comparable worker" as used in the preceding paragraph means a regular worker who is employed by a person intending to receive worker dispatching business, and the content of whose work and the extent of whose responsibility for the work (hereinafter referred to as a "job duty"), and the scope of change in whose job duties and assignment are expected to be the same as those of dispatched workers under the relevant dispatching arrangement, or any other worker specified by Order of the Ministry of Health, Labor and Welfare as a worker against whom such dispatched workers should be compared in terms of treatment.
- (9) If a dispatching business operator has not received information under the provisions of paragraph (7) from the person that intends to receive worker dispatching services, the operator must not conclude a worker dispatch contract with that person with regard to the work in which dispatched workers are to be engaged under the relevant dispatching arrangement.
- (10) In the case of any change in the information referred to in paragraph (7), the client without delay, must provide the relevant dispatching business operator with the details of the change in information, pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare.
- (11) A person that intends to receive worker dispatching services and a client must give consideration in relation to the amount of the fee for the relevant

dispatching to be provided so that the operator is able to comply with the provisions of Article 30-3 in the case of dispatching provided other than that associated with the agreement referred to in Article 30-4, paragraph (1), and with the provisions of an agreement concerning the particulars set forth in items (ii) through (v) of the same paragraph in the case of worker dispatch associated with the agreement referred to in the same paragraph.

(Cancellation of Contract)

Article 27 It is prohibited for any person receiving a worker dispatching services to cancel a worker dispatch contract on the grounds of a dispatched worker's nationality, creed, sex, social status, engagement in legitimate labor union activities, etc.

Article 28 If a person receiving worker dispatching services has violated, with regard to the relevant work under a dispatching arrangement, the provisions of this Act or of Acts applied pursuant to the provisions of Section 4 (including the provisions of orders based on these provisions; the same applies in Article 31 and Article 40-6, paragraph (1), item (v)), the person in control of the business of carrying out the relevant worker dispatching business may suspend the worker dispatching business concerned or cancel the relevant worker dispatch contract.

Article 29 The cancellation of a worker dispatch contract has only prospective effect.

(Measures Taken upon the Cancellation of a Worker Dispatch Contract)

Article 29-2 If a person receiving worker dispatching services cancels the worker dispatch contract for its own reason, the person must take measures necessary for ensuring the employment security of the relevant dispatched workers, including securing of new employment opportunities for the dispatched workers under the dispatching arrangement and taking measures to secure necessary funds to pay the dispatched workers an allowance for absence from work and other similar allowances.

Section 2 Measures to Be Taken by a Dispatching Business Operators

(Employment Security of Specified Dispatched Workers on a Fixed-term Contract)

Article 30 (1) A dispatching business operator must endeavor to take the measures set forth in the following items, pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare, for each dispatched worker on a

fixed-term contract employed by the operator (referring to a dispatched worker employed for a fixed term; the same applies hereinafter) and specified by Order of the Ministry of Health, Labor and Welfare as to whom has a prospect of continuously engaging in work under the relevant worker dispatch arrangement for at least one year in an organizational unit at the client's place of business or other places at which the relevant work under a dispatching arrangement is performed (hereinafter referred to as a "specified dispatched worker on a fixed-term contract"); or specified by Order of the Ministry of Health, Labor and Welfare as to whom is considered to be in great need of employment security; or specified by Order of the Ministry of Health, Labor and Welfare as to whom otherwise is a worker to be employed by the operator for a fixed term as a dispatched worker and is considered to be in great need of employment security (hereinafter referred to as a "specified dispatched worker on a fixed-term contract, etc." in this paragraph):

- (i) requesting the client to offer a labor contract to each specified dispatched worker on a fixed-term contract;
 - (ii) securing opportunities to work (limited to work under reasonable conditions in light of the ability and experience of each specified dispatched worker on a fixed-term contract, etc. and other particulars specified by Order of the Ministry of Health, Labor and Welfare) as a dispatched worker, and providing such opportunities to specified dispatched workers on fixed-term contracts, etc.;
 - (iii) securing opportunities for employment as a worker without a fixed term other than as a dispatched worker, and providing such opportunities to specified dispatched workers on fixed-term contracts, etc.; and
 - (iv) beyond what is set forth in the preceding three items, taking measures specified by Order of the Ministry of Health, Labor, and Welfare as those necessary for ensuring the employment security of specified dispatched workers on fixed-term contracts, etc., including educational training for those workers, etc. specified by Order of the Ministry of Health, Labor and Welfare as educational training considered particularly contributory to their employment security.
- (2) With regard to the application of the provisions of the preceding paragraph to a specified dispatched worker on a fixed-term contract who has a prospect of continuously engaging in work for three years under the relevant worker dispatch arrangement with regard to work in an organizational unit at the client's place of business or other places at which the relevant work under a dispatching arrangement is performed, the term "must endeavor to take" in the same paragraph is deemed to be replaced with "must take."

(Stepwise and Systematic Educational Training)

Article 30-2 (1) A dispatching business operator must provide educational training to dispatched workers employed thereby so that they can acquire the skills and knowledge necessary for work under a dispatching arrangement in a step-by-step and systematic manner. In this case, when those dispatched workers are dispatched workers on open-ended contracts (referring to dispatched workers employed without a fixed term; the same applies hereinafter), the dispatching business operator must give consideration so that those dispatched workers with open-ended contracts can effectively exercise their abilities throughout their working lives.

(2) A dispatching business operator, at the request of dispatched workers employed thereby, must provide them with assistance in the designing of their working lives, such as the provision of consultation opportunities.

(Prohibition on Unreasonable Treatment)

Article 30-3 (1) A dispatching business operator must not create differences between the conditions, such as base pay and bonuses, of dispatched workers employed thereby and the corresponding conditions of regular workers employed by the relevant client, that are found to be unreasonable in consideration of, among such circumstances as the job duties of those dispatched workers and regular workers, and the scope of change in their job duties and assignment, those circumstances that are found to be appropriate in light of the nature of the treatment and the purpose of treating those workers in the manner mentioned above.

(2) A dispatching business operator must not, without reasonable grounds, treat each condition of dispatched workers, such as base pay and bonuses, disadvantageous compared with the corresponding conditions of regular workers employed by the relevant client, when the job duties of those dispatched workers are the same as those of the regular workers, and the job duties and assignment of those dispatched workers throughout the period of the relevant work under a dispatching arrangement at the client until the termination thereof are expected to change within the same scope as the scope of change in the job duties and assignment of the regular workers throughout the period of their employment relationship with the client until the termination thereof, in light of such circumstances as the worker dispatch contract and work practices at the client.

Article 30-4 (1) Pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare, a dispatching business operator must not apply the provisions of the preceding Article to the treatment of dispatched workers within the scope specified in item (i), if the following particulars concerning the treatment of dispatched workers (except for treatment associated with that

specified by Order of the Ministry of Health, Labor and Welfare, including the educational training referred to in Article 40, paragraph (2) and the welfare facilities in paragraph (3) of the same Article; the same applies in this paragraph) employed by the operator are prescribed in a written agreement with the labor union consisting of a majority of the workers at the operator in the case where it exists, or with a person who represents a majority of the workers at the operator in the case where such a labor union does not exist; provided, however, that this does not apply where the particulars prescribed by the agreement are not complied with in relation to those set forth in item (ii), (iv), or (v), or where fair evaluation based on the agreement is not implemented in relation to item (iii):

- (i) the scope of dispatched workers whose treatment is as prescribed by the agreement;
- (ii) the method of determining the wages of dispatched workers falling within the scope set forth in the preceding item (limited to wages falling under (a) and (b) (or only (a), for the types of wage specified by Order of the Ministry of Health, Labor and Welfare, such as commuting allowances) below);
 - (a) the method needs to ensure that the amount of wages is at least equivalent to what is specified by Order of the Ministry of Health, Labor and Welfare as the amount of average wages for general workers engaged in the same type of work as that in which dispatched workers engage;
 - (b) the method needs to ensure improvement in wages when particulars concerning the actual working conditions of dispatched workers, such as their job duties, work outcomes, motivation, abilities, or experience, are improved;
- (iii) in determining wages by using the wage determination method set forth in the preceding item, the dispatching business operator is required to do so through fair evaluation of particulars concerning the actual working conditions of dispatched workers, such as their job duties, work outcomes, motivation, abilities, or experience;
- (iv) the method of determining the treatment (except for wages; hereinafter the same applies in this item) of dispatched workers falling within the scope set forth in item (i) (limited to any method that will not create differences, between the conditions of those dispatched workers and the corresponding conditions of regular workers employed by the dispatching business operator, that are found to be unreasonable in consideration of, among such circumstances as the job duties of the dispatched workers and regular workers and the scope of change in their job duties and assignment, those circumstances that are found to be appropriate in light of the nature of the treatment and the purpose of treating those workers in the manner mentioned above);

- (v) the dispatching business operator is required to provide dispatched workers falling within the scope set forth in item (i) with educational training under Article 30-2, paragraph (1); and
 - (vi) beyond what is set forth in each of the preceding items, particulars specified by Order of the Ministry of Health, Labor and Welfare.
- (2) A dispatching business operator that has concluded an agreement as referred to as in the preceding paragraph must familiarize workers employed thereby with the agreement pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare.

(Determination of Wages by Taking Account of Job Duties)

Article 30-5 A dispatching business operator, with consideration given to striking a balance with regular workers employed by clients, must endeavor to determine the wages (except the types of wage specified by Order of the Ministry of Health, Labor and Welfare, including commuting allowances) of dispatched workers employed by the operator (except dispatched workers referred to in Article 30-3, paragraph (2) and those whose treatment is as prescribed by the agreement referred to in paragraph (1) of the preceding Article (hereinafter referred to as an "agreement-based dispatched worker")) in consideration of particulars concerning their actual working conditions, such as their job duties, work outcomes, motivation, abilities, or experience.

(Procedure for Preparation of Rules of Employment)

Article 30-6 When preparing or amending rules of employment in relation to matters concerning dispatched workers, a dispatching business operator must endeavor to, in advance, hear the opinion of a party that is found to represent a majority of dispatched workers employed at the place of business of the operator.

(Promotion of the Welfare of Dispatched Workers)

Article 30-7 Beyond what is provided for in Article 30 through the immediately preceding Article, a dispatching business operator must endeavor to promote the welfare of dispatched workers whom the operator employs and of workers the operator intends to employ as dispatched workers, by taking necessary measures to secure employment opportunities (including opportunities to be employed as workers other than dispatched workers) and educational training opportunities according to each worker's wish, ability, and experience, to improve their working conditions, and otherwise to stabilize their employment.

(Securing Proper Work under a Dispatching Arrangement)

Article 31 A dispatching business operator must give due consideration such as

taking necessary measures to ensure that a client, when having dispatched workers work under the client's instructions, does not violate the provisions of this Act or Acts applied pursuant to the provisions of Section 4 with regard to the work under a dispatching arrangement and otherwise to ensure that the work under a dispatching arrangement is properly performed.

(Explanation about Particulars Concerning Treatment)

- Article 31-2 (1) A dispatching business operator, pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare, must explain to workers whom the operator intends to employ as dispatched workers, particulars specified by Order of the Ministry of Health, Labor and Welfare, including the planned wages of those workers if employed as dispatched workers and other particulars concerning the treatment of those workers.
- (2) When employing a worker as a dispatched worker, a dispatching business operator, in advance, by the use of documents or other methods specified by Order of the Ministry of Health, Labor and Welfare (referred to as "document issuance, etc." in the following paragraph), must clearly indicate to the worker the particulars set forth in item (i) and explain the details of the measures set forth in item (ii) to the worker pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare:
- (i) among particulars concerning working conditions, those specified by Order of the Ministry of Health, Labor and Welfare other than the particulars specified by Order of the Ministry of Health, Labor and Welfare as provided in Article 15, paragraph (1) of the Labor Standards Act; and
 - (ii) the details of measures to be taken in relation to the particulars for which measures should be taken pursuant to the provisions of Article 30-3, Article 30-4, paragraph (1), and Article 30-5 (except for the particulars specified by Order of the Ministry of Health, Labor and Welfare as provided in Article 15, paragraph (1) of the Labor Standards Act and the particulars set forth in the preceding item).
- (3) When intending to carry out worker dispatch (except where it is related to the agreement referred to in Article 30-4, paragraph (1)), a dispatching business operator, in advance through document issuance, etc., must clearly indicate to dispatched workers involved in the worker dispatch, the particulars set forth in item (i) and explain the details of the measures set forth in item (ii) to those dispatched workers pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare:
- (i) the particulars specified by Order of the Ministry of Health, Labor and Welfare as provided in Article 15, paragraph (1) of the Labor Standards Act; and the particulars set forth in item (i) of the preceding paragraph (except those specified by Order of the Ministry of Health, Labor and Welfare); and

- (ii) the details of the measures set forth in item (ii) of the preceding paragraph.
- (4) A dispatching business operator, if requested by an employed dispatched worker, must explain to the dispatched worker the details of and reasons for differences in treatment between the dispatched worker and the comparable worker prescribed in Article 26, paragraph (8), and the particulars taken into account in making a decision on the particulars for which measures should be taken pursuant to the provisions of Articles 30-3 through 30-6.
- (5) A dispatching business operator must not dismiss or otherwise disadvantageously treat any dispatched worker on the ground of the worker's request made as referred to in the preceding paragraph.

(Clear Indication to Workers about Being Employed as Dispatched Workers)

- Article 32 (1) A dispatching business operator, when employing a worker as a dispatched worker, must clearly indicate to the worker concerned to that effect in advance (if the operator intends to employ the worker as a dispatched worker for employment placement dispatch, if this is the case).
- (2) "If a dispatching business operator seeks to newly treat as a dispatched worker, an existing worker whom the operator originally employed as a worker other than a dispatched worker, then the operator must clearly so indicate to the worker concerned in advance and obtain the worker's consent (if the operator seeks to newly treat the worker as a subject of employment placement dispatch, including that fact) and obtain the worker's consent.

(Prohibition of Restrictions on Employment of Dispatched Workers)

- Article 33 (1) Without legitimate grounds, a dispatching business operator must not enter into a contract with a dispatched worker whom the operator employs or a worker whom the operator intends to employ as a dispatched worker prohibiting the worker from being employed by the client (including a person that once was a client; the same applies in the following paragraph) or the prospective client concerning that dispatched worker after the employment relationship with the operator terminates.
- (2) Without legitimate grounds, a dispatching business operator must not enter into a contract with a client that receives or is to receive a dispatched worker employed and dispatched by the operator prohibiting the client from employing the dispatched worker concerned after the worker's employment relationship with the operator terminates.

(Clear Indication of Working Conditions)

- Article 34 (1) When intending to carry out worker dispatch, a dispatching business operator must clearly indicate to dispatched workers under the relevant worker dispatch arrangement the following particulars in advance

(excluding the particulars set forth in items (iii) and (iv) if the worker dispatch falls under any of the items of Article 40-2, paragraph (1)), pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare:

- (i) the agency's intention to carry out the worker dispatch;
 - (ii) particulars pertaining to the relevant dispatched workers among those set forth in each item of Article 26, paragraph (1) and those specified by Order of the Ministry of Health, Labor and Welfare;
 - (iii) the first day on which the operator will be in conflict with the provisions of Article 35-3 with regard to work in an organizational unit at the place of business, or at other places at which the work under a dispatching arrangement is to be performed and, where dispatched workers will be engaged in work under the worker dispatch arrangement; and
 - (iv) the first day on which the client will be in conflict with the provisions of Article 40-2, paragraph (1) with regard to work at the client's place of business, or at other places at which the work under a dispatching arrangement is to be performed and, where dispatched workers will be engaged in work under the worker dispatch arrangement.
- (2) When a dispatching business operator has received a notification under the provisions of Article 40-2, paragraph (7) from a client, the operator, without delay, must clearly indicate to the dispatched workers engaged in work at the client's place of business connected with the notification or at other places at which the work under a dispatching arrangement is performed and which are connected with the notification, the first day on which the client will be in conflict with the provisions of paragraph (1) of the same Article with regard to work at the place of business or other places at which the work under a dispatching arrangement is performed, pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare.
- (3) When giving a clear indication under the provisions of the preceding two paragraphs, a dispatching business operator must also clearly indicate that if the client commits any act that falls under Article 40-6, paragraph (1), item (iii) or (iv), the client will be deemed to have offered a labor contract pursuant to the provisions of the same paragraph.

(Clear Indication of the Amount of the Fee for Worker Dispatch)

Article 34-2 In each case set forth in the following items, a dispatching business operator, pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare, must clearly indicate to the workers set forth in the corresponding item the amount specified by Order of the Ministry of Health, Labor and Welfare as the amount of the fee for worker dispatch in connection with the workers:

- (i) if the operator intends to employ the worker as a dispatched worker: the

relevant worker

- (ii) if the operator intends to carry out worker dispatch or changes the amount of the fee for worker dispatch the relevant dispatched worker under the worker dispatching arrangement

(Notification to Client)

Article 35 (1) When a dispatching business operator carries out worker dispatch, the operator must notify the client of the following particulars pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare:

- (i) the name of each worker to be dispatched under the worker dispatch arrangement concerned;
 - (ii) whether each worker to be dispatched under the worker dispatching arrangement is an agreement-based dispatched worker;
 - (iii) whether each worker to be dispatched under the worker dispatching arrangement is a dispatched worker on an open-ended contract or a dispatched worker on a fixed-term contract;
 - (iv) whether each worker to be dispatched under the worker dispatching arrangement is a person specified by Order of the Ministry of Health, Labor and Welfare as referred to in Article 40-2, paragraph (1), item (ii);
 - (v) with regard to each worker to be dispatched under the worker dispatching arrangement concerned, particulars specified by Order of the Ministry of Health, Labor and Welfare in relation to whether there exist a confirmation of the acquisition of qualification as an insured person under the provisions of Article 39, paragraph (1) of the Health Insurance Act, a confirmation of the acquisition of qualification as an insured person under the provisions of Article 18, paragraph (1) of the Employees' Pension Insurance Act, and a confirmation of the fact of having become an insured person under the provisions of Article 9, paragraph (1) of the Employment Insurance Act; and
 - (vi) other particulars specified by Order of the Ministry of Health, Labor and Welfare.
- (2) A dispatching business operator, if there is any change to the particulars set forth in items (ii) through (v) of the preceding paragraph after having given notice under the provisions of the same paragraph, must notify the client of the change without delay.

(Period of Worker Dispatch)

Article 35-2 A dispatching business operator, if a client would come into conflict with the provisions of Article 40-2, paragraph (1) for receiving dispatching services from a dispatching business operator, then that operator must not continue to carry out the relevant worker dispatch from the first day the conflict occurred.

Article 35-3 A dispatching business operator must not continuously provide the worker dispatch (excluding worker dispatch that falls under any of the items of Article 40-2, paragraph (1)) of the same dispatched worker for more than three years with regard to work in an organizational unit at the client's place of business or other places at which the work under a dispatching arrangement is performed.

(Prohibition of Dispatching Day Workers)

Article 35-4 (1) A dispatching business operator must not carry out the worker dispatch whom are day workers employed thereby (referring to workers employed on a daily basis or for a fixed term not exceeding 30 days; the same applies in this paragraph), except in the case where the operator carries out worker dispatch for any work specified by Cabinet Order as work whose swift and adequate performance requires expert knowledge, technical skills, or experience and one that is considered unlikely to interfere with the proper employment management of the day workers even if these day workers engage in this work under the worker dispatching arrangement, or in other cases specified by Cabinet Order, such as the case where the worker dispatch is considered necessary for such purposes as the continued employment of workers for whom securing employment opportunities is considered particularly difficult.

(2) Before drafting a proposal for the establishment or amendment of Cabinet Order referred to in the preceding paragraph, the Minister of Health, Labor and Welfare must obtain the opinion of the Labor Policy Council.

(Prohibition of Dispatching Workers Separated from Employment)

Article 35-5 A dispatching business operator that intends to carry out worker dispatch must not carry it out if the client comes into conflict with the provisions of Article 40-9, paragraph (1) by receiving the worker dispatching services concerned.

(Responsible Person for Dispatching Business)

Article 36 A dispatching business operator must, in order to have the following particulars carried out with regard to work under a dispatching arrangement, appoint a responsible person for the dispatching business of the operator from among persons (excluding minors, and limited to persons who meet the criteria specified by Order of the Ministry of Health, Labor and Welfare and are thereby regarded as sufficiently able to properly manage the employment of dispatched workers) who do not fall under any items of (i), (ii), and (iv) through (ix) of Article 6, pursuant to the provisions of Order of the Ministry of Health,

Labor and Welfare:

- (i) particulars relating to those prescribed in Articles 32, 34, and 35 and the following Article;
- (ii) giving necessary advice and guidance to relevant dispatched workers;
- (iii) handling of complaints submitted by relevant dispatched workers;
- (iv) particulars relating to the management of the personal information of relevant dispatched workers;
- (v) particulars relating to the provision of educational training to relevant dispatched workers and relating to the securing of opportunities for consultation about the designing of their working lives;
- (vi) carrying out liaison and coordination with the person that oversees the administration of affairs relating to the safety and health of workers at the place of business concerned and with relevant clients, in relation to particulars relating to the safety and health of relevant dispatched workers; and
- (vii) beyond what is set forth in the preceding items, particulars relating to liaison and coordination with relevant clients.

(Management Record of Dispatching Business)

Article 37 (1) A dispatching business operator must prepare a management record with regard to work under a dispatching arrangement and enter in the record concerned the following particulars with regard to each dispatched worker, pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare:

- (i) whether the dispatched worker is an agreement-based dispatched worker;
- (ii) whether the dispatched worker is a dispatched worker on an open-ended contract or a dispatched worker on a fixed-term contract (and the period of the labor contract if the dispatched worker is a dispatched worker on a fixed-term contract);
- (iii) whether the dispatched worker is a person specified by Order of the Ministry of Health, Labor and Welfare as referred to in Article 40-2, paragraph (1), item (ii);
- (iv) the name of the client;
- (v) the locations of the client's places of business or other places at which the work under a dispatching arrangement is performed and the organizational unit;
- (vi) the period of worker dispatch and the days on which work under a dispatching arrangement is performed;
- (vii) the hours of starting and ending work;
- (viii) the kind of work that the dispatched worker engages in;
- (ix) measures taken pursuant to the provisions of Article 30, paragraph (1)

- (including the case where the provisions are applied pursuant to the provisions of paragraph (2) of the same Article following the deemed replacement of terms);
- (x) the date, time, and content of educational training provided (limited to educational training specified by Order of the Ministry of Health, Labor and Welfare);
 - (xi) matters relating to the handling of complaints submitted by the dispatched worker;
 - (xii) if the dispatched worker is for employment placement dispatch, particulars relating to the relevant employment placement dispatch; and
 - (xiii) other particulars specified by Order of the Ministry of Health, Labor and Welfare.
- (2) A dispatching business operator must retain the management record referred to in the preceding paragraph for three years.

(Application Mutatis Mutandis)

Article 38 The provisions of Article 33 and Article 34, paragraph (1) (excluding items (iii) and (iv)) apply mutatis mutandis to persons in control of the business of carrying out worker dispatch other than dispatching business operators. In this case, the term "client" in Article 33 is deemed to be replaced with "person receiving worker dispatching services."

Section 3 Measures to Be Taken by Clients

(Measures Concerning Worker Dispatch Contracts)

Article 39 A client must take appropriate measures so that there will not be a violation of the provisions of any worker dispatch contract concerning the particulars set forth in each item of Article 26, paragraph (1) and other particulars specified by Order of the Ministry of Health, Labor and Welfare.

(Securing Proper Work under a Dispatching Arrangement)

- Article 40 (1) When a client receives any complaint from a dispatched worker working under the instructions thereof with regard to the work under a dispatching arrangement, the client must notify the dispatching business operator concerned of the details of the complaint and endeavor, in good faith and without delay, to handle the complaint appropriately and promptly in close cooperation with the dispatching business operator concerned.
- (2) A client must take necessary measures such as providing every dispatched worker working under the instructions thereof, at the request of the dispatching business operator employing the dispatched worker, with educational training that aims to help workers employed by the client and

engaged in the same type of work as the dispatched worker's acquire the ability necessary to perform the work, in order to enable the dispatched worker to acquire the ability necessary to perform the work, except in the case where the dispatched worker already has the ability or in other cases specified by Order of the Ministry of Health, Labor and Welfare.

- (3) A client must provide dispatched workers working under the instructions thereof with opportunities to use welfare facilities which the client provides workers employed thereby with opportunities to use and which are specified by Order of the Ministry of Health Labor and Welfare as those contributory to the smooth performance of work.
- (4) Beyond what is prescribed in the preceding three paragraphs, a client must give consideration to dispatched workers who are made to work under the instructions thereof by taking measures necessary for the proper and smooth performance of the relevant work under a dispatching arrangement, such as the maintenance of the proper work environment and the facilitation of use of facilities such as the infirmary, which are actually and usually used by the regular employees of the client (excluding the welfare facilities specified by Order of the Ministry of Health, Labor and Welfare as referred to in the preceding paragraph).
- (5) In order that measures are appropriately taken pursuant to the provisions of Articles 30-2 and 30-3, Article 30-4, paragraph (1), and Article 31-2, paragraph (4), a client , at the request of the dispatching business operator, must give consideration to providing necessary cooperation, including providing information necessary for those measures, such as information on the work of dispatched workers working under the instructions of the client and on workers employed by the client and engaged in the same type of work as those dispatched workers' work, and information on the performance of work by those dispatched workers.

(Period of Receiving Worker Dispatching Services)

Article 40-2 (1) A client must not receive worker dispatching services from a dispatching business operator continuously for a duration exceeding the duration for which dispatching is possible for work at a client's places of business or other places at which the work under a dispatching arrangement is performed, unless the worker dispatch falls under any of the following items:

- (i) worker dispatch of dispatched workers on open-ended contracts;
- (ii) worker dispatch pertaining to persons specified by Order of the Ministry of Health, Labor and Welfare as dispatched workers for whom it is particularly difficult to secure employment opportunities and for whom the continuance of employment, etc. are considered necessary;
- (iii) worker dispatch for work falling under (a) or (b) below:

- (a) work intended for the commencement, conversion, expansion, downsizing, or discontinuation of an undertaking that is scheduled to be completed within a certain period of time;
 - (b) work for which the number of performance days during a period of one month is considerably less than the prescribed number of working days per month for regular workers employed by the client associated with the work under a dispatching arrangement and is less than the number of days specified by the Minister of Health, Labor and Welfare;
 - (iv) worker dispatch in connection with the work of a worker employed by the client in the case where the worker takes leave under the provisions of Article 65, paragraphs (1) and (2) of the Labor Standards Act, or takes childcare leave 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 in other cases specified by Order of the Ministry of Health, Labor and Welfare as equivalent to the preceding case; or
 - (v) worker dispatch in connection with the work of a worker employed by the client in the case where the worker takes family care leave prescribed in Article 2, item (ii) of the Act on Childcare Leave, Caregiver Leave, and Other Measures for the Welfare of Workers Caring for Children or Other Family Members or other leave specified by Order of the Ministry of Health, Labor and Welfare as equivalent to the preceding leave.
- (2) The period during which dispatching is possible as set forth in the preceding paragraph (hereinafter referred to as a "duration for which dispatching is possible") is three years.
- (3) If a client intends to receive the services of worker dispatching (excluding worker dispatch that falls under any of the items of paragraph (1); hereinafter the same applies in this paragraph) from a dispatching business operator continuously for a period exceeding three years with regard to work at a client's place of business or other places at which the work under a dispatching arrangement is to be performed, then during the period from the day on which the worker dispatching services commence with regard to work at a client's place of business or other places at which the work under a dispatching arrangement is to be performed (if the duration for which dispatching is possible is extended pursuant to the provisions of this paragraph, the day on which the duration for which dispatching is possible prior to the extension elapses) until the day one month before the first day on which the client comes into conflict with the provisions of paragraph (1) with regard to work at a client's place of business or other places at which the work under a dispatching arrangement is to be performed (referred to as an "opinion hearing period" in the following paragraph), the client may extend the duration for which

dispatching is possible by up to three years pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare. The same applies to any further extension of the extended duration for which dispatching is possible.

- (4) A client, when intending to extend the duration for which dispatching is possible, must hear the opinions of the majority labor union, etc. (referring to a labor union comprising a majority of the workers if it exists at the client's place of business or a person who represents a majority of the workers if a majority labor union does not exist at the client's place of business; the same applies in the following paragraph) within an opinion hearing period pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare.
- (5) If the majority labor union, etc. whose opinions are heard pursuant to the provisions of the preceding paragraph makes an objection, a client must, in relation to work at each of the client's places of business or other places at which the work under a dispatching arrangement is performed, explain to the majority labor union, etc. the particulars specified by Order of the Ministry of Health, Labor and Welfare, including the reason for the extension of the duration for which dispatching is possible, by the day preceding the day on which the duration for which dispatching is possible prior to extension elapses.
- (6) A client must endeavor to faithfully hear opinions pursuant to the provisions of paragraph (4) and give an explanation pursuant to the provisions of the preceding paragraph in line with the purposes of this Act.
- (7) A client, when having extended the duration for which dispatching is possible pursuant to the provisions of paragraph (3), must promptly notify the dispatching business operator carrying out the relevant worker dispatch of the first day the client will come into conflict with the provisions of paragraph (1) with regard to work at each of the client's places of business or other places at which the work under a dispatching arrangement is performed.
- (8) Before establishing or amending the Order of the Ministry of Health, Labor and Welfare referred to in paragraph (1), item (ii), (iv) or (v), the Minister of Health, Labor and Welfare must obtain the opinion of the Labor Policy Council in advance.

Article 40-3 If the duration for which dispatching is possible is extended pursuant to the provisions of paragraph (3) of the preceding Article, a client must not continuously receive worker dispatching (excluding worker dispatch that falls under any of the items of paragraph (1) of the same Article) for the same dispatched worker from the dispatching business operator for a period exceeding three years with regard to work in an organizational unit at the client's places of business or other places at which the work under a dispatching arrangement is performed.

(Employment of Specified Dispatched Worker on a Fixed-Term Contract)

Article 40-4 A client that has continuously received worker dispatching (excluding worker dispatch that falls under any of the items of Article 40-2, paragraph (1)) business pertaining to a specified dispatched worker on a fixed-term contract from a dispatching business operator for one year or longer with regard to work in an organizational unit at the client's place of business or other places at which the relevant work under a dispatching arrangement is performed must, if the client intends to employ a worker on or after the expiration day of the period of receiving the worker dispatching services (hereinafter referred to as a "dispatch implementation period" in this Article) in order to continuously engage a worker in the work concerned, endeavor to, without delay, employ the specified dispatched worker on a fixed-term contract (limited to those specified by Order of the Ministry of Health, Labor and Welfare as those who desire to be continuously employed) who has continuously been engaged in the work during the dispatch implementation period.

(Provision of Information on Recruitment of Workers Employed by Clients)

Article 40-5 (1) A client that is continuously receiving worker dispatching services from a dispatched worker from a dispatching business operator for one year or longer at the client's place of business or other places at which the work under a dispatching arrangement is performed, if the client intends to recruit a regular worker who is to be engaged in work at the client's place of business or other places at which the work under a dispatching arrangement is performed, must provide the dispatched worker with information on the recruitment, including the work details, wages, and working hours, by taking such measures as posting the information at the place of business or other place at which the work under a dispatching arrangement is performed.

(2) With regard to the application of the provisions of the preceding paragraph to specified dispatched workers on fixed-term contracts (limited to those specified by Order of the Ministry of Health, Labor and Welfare as those who desire to be continuously employed) who have a prospect of continuously engaging in work under a dispatching arrangement for three years with regard to work in an organizational unit at a client's place of business or other places at which work under a dispatching arrangement is performed, the terms "worker dispatching" and "regular worker" in the same paragraph are deemed to be replaced with "worker dispatching (excluding worker dispatch that falls under any of the items of Article 40-2, paragraph (1))" and "worker," respectively.

Article 40-6 (1) When a person receiving worker dispatching services (excluding organs of the national government (including agencies engaged in

administrative execution (referring to the agency engaged in administrative execution defined in Article 2, paragraph (4) of the Act on General Rules for Incorporated Administrative Agencies (Act No. 103 of 1999)); the same applies in the following Article) and local governments (including specified local incorporated administrative agencies (referring to the specified local incorporated administrative agency defined in Article 2, paragraph (2) of the Local Incorporated Administrative Agency Act (Act No. 118 of 2003)); the same applies in the following Article); hereinafter the same applies in this Article) commits any of the acts set forth in the following items, the person is deemed to have offered to a dispatched worker under the relevant worker dispatching arrangement a labor contract with the same working conditions as those applicable to the dispatched worker as of the time when the act is committed, unless the person receiving worker dispatching services is non-negligently unaware that the act committed falls under any of the acts set forth in the following items:

- (i) engaging the dispatched worker in work that falls under any of the items of Article 4, paragraph (1) in violation of the provisions of paragraph (3) of the same Article;
 - (ii) receiving worker dispatching services in violation of the provisions of Article 24-2;
 - (iii) receiving worker dispatching services in violation of the provisions of Article 40-2, paragraph (1) (excluding violations of the provisions of paragraph (1) of the same Article resulting from the absence of the hearing procedures set forth in paragraph (4) of the same Article as specified by Order of the Ministry of Health, Labor and Welfare);
 - (iv) receiving worker dispatching services in violation of the provisions of Article 40-3; or
 - (v) concluding any contract for work or other contract under any title other than worker dispatch for the purpose of evading the application of the provisions of this Act or any law that is applicable pursuant to the provisions of the following Section, and receiving worker dispatching services without prescribing the particulars set forth in the items of Article 26, paragraph (1) in the contract.
- (2) A person receiving worker dispatching services and deemed to have offered a labor contract pursuant to the provisions of the preceding paragraph may not terminate the offer within one year from the day on which the applicable act set forth in the same paragraph that resulted in the offer ends.
- (3) If a person receiving worker dispatching services and deemed to have offered a labor contract pursuant to the provisions of paragraph (1) does not receive the manifestation of intention to accept or not to accept the offer within the period set forth in the preceding paragraph, the offer ceases to be effective.

- (4) A person in control of the business of worker dispatch related to a dispatched worker associated with a labor contract that is deemed to have been offered pursuant to the provisions of paragraph (1), at the request of the person receiving the relevant worker dispatching services, must promptly notify the person of the working conditions of the dispatched worker as of the time when the labor contract is deemed to have been offered pursuant to the provisions of the same paragraph.

Article 40-7 (1) If a person receiving a worker dispatching services that is an organ of the national government or a local government commits any act that falls under any of the items of paragraph (1) of the preceding Article (excluding the case referred to in the proviso to the same paragraph), and if the relevant dispatched worker under the worker dispatching arrangement requests, within one year from the day on which the relevant act has ended, that the dispatched worker be engaged in the same work as the work under the dispatching arrangement at the organ of the national or local government, the organ of the national or local government, in line with the purposes of the provisions of the same paragraph and from the viewpoint of ensuring the employment security of the dispatched worker, must take such appropriate measures as hiring pursuant to the provisions of the National Public Service Act (Act No. 120 of 1947; including as applied mutatis mutandis pursuant to the Act on Temporary Measures concerning Court Officials (Act No. 299 of 1951)), the Diet Officers Act (Act No. 85 of 1947), the Self-Defense Forces Act (Act No. 165 of 1954), the Local Public Service Act (Act No. 261 of 1950), or other applicable laws and regulations.

- (2) A person in control of the business of worker dispatch related to a dispatched worker who has made a request as prescribed in the preceding paragraph, at the request of the organ of the national or local government associated with the relevant worker dispatch, must promptly notify the organ of the national or local government of the working conditions of the dispatched worker as of the time when the organ of the national or local government committed an act that falls under any of the items of paragraph (1) of the preceding Article.

Article 40-8 (1) The Minister of Health, Labor and Welfare may, at the request of a person receiving worker dispatching services or a dispatched worker, give necessary advice about whether an act by a person receiving worker dispatching services falls under any of the items of Article 40-6, paragraph (1).

- (2) If a dispatched worker associated with a labor contract that is deemed to have been offered pursuant to the provisions of Article 40-6, paragraph (1) accepts the offer but is not allowed to work by the person that receives worker dispatching services and that is deemed to have offered the labor contract

pursuant to the provisions of the same paragraph, the Minister of Health, Labor and Welfare may give the person receiving worker dispatching services necessary advice, guidance, or recommendations about the employment of the dispatched worker.

- (3) If a person that receives worker dispatching services and is deemed to have offered a labor contract pursuant to the provisions of Article 40-6, paragraph (1) does not follow the recommendation given by the Minister of Health, Labor and Welfare, pursuant to the provisions of the preceding paragraph, that the relevant dispatched worker should be allowed to work, the Minister of Health, Labor and Welfare may make it public to that effect.

(Prohibition of Receiving Worker Dispatching Services for Workers Separated from Employment)

Article 40-9 (1) A client that intends to receive worker dispatching services , if a dispatched worker under the relevant worker dispatching arrangement is a person separated from employment with the client, must not receive worker dispatching services for that dispatched worker (excluding dispatched workers specified by Order of the Ministry of Health, Labor and Welfare as those for whom it is particularly difficult to secure employment opportunities and for whom the continuance of employment, etc. is considered necessary) until one year has elapsed counting from the date of the separation from employment.

- (2) If a client receiving a notification under the provisions of Article 35, paragraph (1) may come into conflict with the provisions of the preceding paragraph upon receiving worker dispatching business, the client must promptly notify the dispatching business operator that intends to carry out the relevant worker dispatch of the possible conflict.

(Responsible Person Acting for Client)

Article 41 A client must appoint a responsible person acting for the client, pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare, to have that person carry out the following particulars with regard to work under a dispatching arrangement:

- (i) making the details of the following particulars known to persons concerned including those empowered in the course of duties to give instructions for the performance of the work of relevant dispatched workers:
- (a) the provisions of this Act and the Acts applied pursuant to the provisions of the following Section (including provisions concerning orders based on these provisions);
 - (b) the provisions of the worker dispatch contract prescribed in Article 39, pertaining to relevant dispatched workers;
 - (c) the notification under the provisions of Article 35, pertaining to relevant

- dispatched workers;
- (ii) particulars relating to those prescribed in Article 40-2, paragraph (7) and the following Article;
- (iii) particulars relating to the handling of complaints submitted by relevant dispatched workers;
- (iv) carrying out liaison and coordination with the person that oversees the administration of affairs relating to the safety and health of workers at the place of business concerned and with relevant dispatching business operators in relation to particulars relating to the safety and health of relevant dispatched workers; and
- (v) beyond what is set forth in the preceding items, particulars relating to liaison and coordination with relevant dispatching business operators.

(Management Record of Client)

Article 42 (1) A client must prepare a management record with regard to work under a dispatching arrangement and enter in the record the following particulars with regard to each dispatched worker, pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare:

- (i) whether the dispatched worker is an agreement-based dispatched worker;
 - (ii) whether the dispatched worker is a dispatched worker on an open-ended contract or a dispatched worker on a fixed-term contract;
 - (iii) whether the dispatched worker is a person specified by Order of the Ministry of Health, Labor and Welfare as referred to in Article 40-2, paragraph (1), item (ii);
 - (iv) the name of the dispatching business operator;
 - (v) the days on which the work under a dispatching arrangement was performed;
 - (vi) the hours of starting and ending work and rest breaks during work, for each day on which work under a dispatching arrangement was performed;
 - (vii) the kind of work in which the dispatched worker was engaged in;
 - (viii) particulars relating to the handling of complaints submitted by the dispatched worker;
 - (ix) if the dispatched worker is for employment placement dispatch, particulars relating to the relevant employment placement dispatch;
 - (x) the date, time, and content of educational training provided (limited to educational training specified by Order of the Ministry of Health, Labor and Welfare); and
 - (xi) other particulars specified by Order of the Ministry of Health, Labor and Welfare.
- (2) A client must retain the management record set forth in the preceding paragraph for three years.

(3) A client, pursuant to Order of the Ministry of Health, Labor and Welfare, must notify a dispatching business operator of the particulars set forth in each item (excluding item (iv)) of paragraph (1).

(Application Mutatis Mutandis)

Article 43 The provisions of Article 39 apply mutatis mutandis to persons receiving worker dispatching business excluding clients.

Section 4 Special Application of the Labor Standards Act and Related Acts

(Special Application of the Labor Standards Act)

Article 44 (1) With regard to work under a dispatching arrangement performed by a worker prescribed in Article 9 of the Labor Standards Act (excluding a person who is engaged in an undertaking in which only relatives living together are engaged, or a domestic servant), who is employed by a person in control of business prescribed in the same Article (hereinafter simply referred to as an "undertaking" in this Section) (hereinafter such a person in control of the relevant business is simply referred to as a "person in control of business" in this Article) and dispatched for an undertaking of another person in control of business to engage in work under a dispatching arrangement for this undertaking, and who is not employed by this other person in control of business (hereinafter such other person in control of business is referred to as a "client business" in this Article) (hereinafter such worker is referred to as "worker being dispatched" in this Section), the provisions of Articles 3, 5, and 69 of the same Act (including penal provisions pertaining to these provisions) apply to the undertaking for which the worker being 派遣元の事業の事業者 is dispatched (hereinafter referred to as a "client undertaking" in this Section), by deeming it to also be an undertaking employing a worker being 派遣元の事業の事業者.

(2) With regard to work under a dispatching arrangement performed by a worker being dispatched, the provisions of Article 7, Article 32, Article 32-2, paragraph (1), Article 32-3, paragraph (1), Article 32-4, paragraphs (1) through (3), Articles 33 through 35, Article 36, paragraphs (1) and (6), Article 40, Article 41, Articles 60 through 63, Article 64-2, Article 64-3, Articles 66 through 68, and Article 141, paragraph (3) of the Labor Standards Act and the provisions of orders based on these provisions (including penal provisions pertaining to these provisions) apply by deeming the client undertaking to be the only undertaking employing the worker being dispatched. In this case, the term "at the workplace" in Article 32-2, paragraph (1) of the same Act is deemed to be replaced with "at the workplace of a business of the relevant dispatching

undertaking (which means the dispatching undertaking prescribed in Article 44, paragraph (3) of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers (hereinafter referred to as the "Worker Dispatching Act"); the same applies hereinafter), where the dispatching employer as prescribed in the same paragraph (hereinafter such employer is simply referred to as a "dispatching employer"); the term "pursuant to rules of employment or the equivalent," in Article 32-3 of the Labor Standards Act is deemed to be replaced with "pursuant to rules of employment or the equivalent, a dispatching employer"; the term "a worker for whom" in the same Article is deemed to be replaced with "a worker who can be made to work for the working hours under the provisions of Article 26 of the Worker Dispatching Act, based on the worker dispatch contract with regard to the worker concerned under paragraph (1) of the same Article"; the term "at that workplace" in the same Article is deemed to be replaced with "at the workplace of the business of the relevant dispatching undertaking, where the dispatching employer"; the term "at that workplace" in Article 32-4, paragraphs (1) and (2) of the Labor Standards Act is deemed to be replaced with "at the workplace of the business of the relevant dispatching undertaking, where the dispatching employer"; the term "at that workplace" in Article 36, paragraph (1) of the same Act is deemed to be replaced with "at the workplace of a business of the relevant dispatching undertaking, where the dispatching employer"; and the term "concluded a written agreement" in the same Article is deemed to be replaced with "concluded a written agreement and."

- (3) The employer prescribed in Article 10 of the Labor Standards Act in the undertaking of a person in control of the business that worker dispatch (hereinafter such an undertaking is referred to as a "dispatching undertaking" in this Section) (hereinafter such an employer is referred to as the "dispatching employer" in this Article) must not carry out worker dispatch, if, in the event that the person would be deemed to be the employer prescribed in that Article in the undertaking of the person in control of business and receiving worker dispatching services pursuant to the provisions of the preceding paragraph is to cause a dispatched worker under the dispatching arrangement concerned to work in accordance with the conditions of work under a dispatching arrangement prescribed in the worker dispatch contract for the worker dispatch in question, and this would result in a conflict with the provisions of Article 32, 34, or 35, Article 36, paragraph (6), Article 40, Articles 61 through 63, Article 64-2 or 64-3, or Article 141, paragraph (3) of the same Act, or the provisions of any orders based on these provisions (referred to as "the provisions of laws and regulations concerning labor standards" in the following paragraph), as applied pursuant to the provisions of the preceding paragraph.
- (4) When an dispatching employer has violated the provisions of the preceding

paragraph (limited to a case where, with regard to a worker under dispatch under the relevant worker dispatch arrangement, the person deemed to be the employer prescribed in Article 10 of the Labor Standards Act in relation to the client undertaking concerned pursuant to the provisions of paragraph (2) comes in conflict with the provisions of laws and regulations concerning relevant labor standards), the dispatching employer is deemed to have violated the provisions of the laws and regulations concerning relevant labor standards, and the provisions of Articles 118, 119, and 121 of the Labor Standards Act apply to the dispatching employer.

- (5) With regard to the special application of the Labor Standards Act under the provisions of each of the preceding paragraphs, the following provisions (including penal provisions relating to these provisions) apply by replacing the following terms in the manner set forth below, respectively: the term "that workplace" in Article 38-2, paragraph (2) of the same Act is deemed to be replaced with "the place of the business (for the work under a dispatching arrangement prescribed in Article 23-2 of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers (Act No. 88 of 1985; hereinafter referred to as the "Worker Dispatching Act"), the place of business of the dispatching undertaking prescribed in Article 44, paragraph (3) of the Worker Dispatching Act)"; the term "in the event that the employer has assigned a worker" in Article 38-3, paragraph (1) of the Labor Standards Act is deemed to be replaced with "in the event that the employer has assigned a worker (including cases in which the client employer (referring to the person deemed to be the employer prescribed in Article 10 of the Worker Dispatching Act for the client undertaking prescribed in Article 44, paragraph (1) of the same Act pursuant to the provisions of paragraph (1) or (2) of the same Article; the same applies hereinafter) has assigned a worker)"; the term "this Act" in Article 99, paragraphs (1) through (3), Article 100, paragraphs (1) and (3), and Article 104-2 of the Labor Standards Act is deemed to be replaced with "this Act and the provisions of Article 44 of the Worker Dispatching Act"; the term "employer" in Article 101, paragraph (1), Article 104, paragraph (2), Article 104-2, Article 105-2, Article 106, paragraph (1), and Article 109 of the Labor Standards Act is deemed to be replaced with "employer (including client employers)"; the term "criminal violations of this Act" in Article 102 of the same Act is deemed to be replaced with "criminal violations (including the crimes prescribed in Articles 118, 119, and 121 of the Labor Standards Act under the provisions of Article 44, paragraph (4) of the Worker Dispatching Act) of this Act (including as applied pursuant to the provisions of Article 44 of the same Act)"; the term "this Act or an order issued pursuant to this Act" in Article 104, paragraph (1) of the Labor Standards Act is deemed to be replaced with "the provisions of this Act or orders issued based on to this Act (including

as applied pursuant to the provisions of Article 44 of the Worker Dispatching Act), or the provisions of paragraph (3) of the same Article"; the term "this Act" in Article 106, paragraph (1) of the Labor Standards Act is deemed to be replaced with "this Act (including the provisions of Article 44 of the Worker Dispatching Act; hereinafter the same applies in this paragraph)"; the term "agreement and any resolution as provided in Article 38-4, paragraphs (1) and (5)" in Article 106, paragraph (1) of the Labor Standards Act is deemed to be replaced with "agreement and any resolution as provided in Article 38-4, paragraphs (1) and (5) (including as applied mutatis mutandis pursuant to Article 41-2, paragraph (3)) and Article 41-2, paragraph (1) (for the client employer, the outline of this Act and orders based on this Act)"; and the term "this Act and orders issued based on this Act" in Article 112 of the Labor Standards Act is deemed to be replaced with "the provisions of this Act and orders issued based on this Act (including as applied pursuant to the provisions of Article 44 of the Worker Dispatching Act), and the provisions of paragraph (3) of the same Article."

(6) Technical replacements and other necessary particulars for the application of the provisions of the Labor Standards Act and orders issued based thereon pursuant to the provisions of this Article are prescribed by orders.

(Special Application of the Industrial Safety and Health Act)

Article 45 (1) With regard to a client undertaking to which workers are dispatched for work under a dispatching arrangement in that undertaking, the person carrying out the client undertaking is also deemed to be the employer of relevant workers being dispatched (referring to the employer prescribed in Article 2, item (iii) of the Industrial Safety and Health Act (Act No. 57 of 1972); hereinafter the same applies in this Article), and those workers being dispatched are deemed to be workers also managed by the person carrying out the client undertaking, and accordingly the provisions of Article 3, paragraph (1), Articles 4 and 10, Articles 12 through 13 (excluding paragraphs (2) and (3)), Articles 13-2, 13-3, 18, and 19-2, Article 59, paragraph (2), Articles 60-2 and 62, Article 66-5, paragraph (1), and Articles 69 and 70 (including penal provisions pertaining to these provisions) of the same Act apply to the person carrying out the client undertaking and those workers being dispatched. In this case, the term "Article 25-2, paragraph (2)" in Article 10, paragraph (1) of the same Act is deemed to be replaced with "Article 25-2, paragraph (2) (including as applied pursuant to the provisions of Article 45, paragraph (3) of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers (hereinafter referred to as the "Worker Dispatching Act"))," and the term "the following operations" in Article 10, paragraph (1) of the Industrial Safety and Health Act is deemed to be replaced with "the

following operations (with regard to a worker being dispatched prescribed in Article 44, paragraph (1) of the Worker Dispatching Act (hereinafter simply referred to as "worker being dispatched"), the operations referred to in item (ii) (excluding those pertaining to special education on safety or health prescribed in Article 59, paragraph (3)), the operations referred to in item (iii) (limited to those operations pertaining to medical examinations under the provisions of Article 66, paragraph (1) (including medical examinations that fall under the provisions of the second sentence of paragraph (2) of the same Article and are specified by Order of the Ministry of Health, Labor and Welfare) and medical examinations pertaining to the above medical examinations under the provisions of paragraph (4) of the same Article, and medical examinations associated with those medical examinations above under the provisions of the proviso to paragraph (5) of the same Article), and the operations referred to in item (v) (limited to those operations specified by Order of the Ministry of Health, Labor and Welfare) are excluded; hereinafter referred to as "safety and health management operations at the client's place of business" in Article 12, paragraph (1) and Article 12-2"; in Article 12, paragraph (1) and Article 12-2, the term "the operations listed in each item of Article 10, paragraph (1)" is deemed to be replaced with "safety and health management operations at the client's place of business", the term "Article 25-2, paragraph (2)" is deemed to be replaced with "Article 25-2, paragraph (2) (including as applied pursuant to the provisions of Article 45, paragraph (3) of the Worker Dispatching Act)," and the term "in each item of paragraph (1) of the same Article" is deemed to be replaced with "in each item of Article 25-2, paragraph (1)"; in Article 13, paragraph (1), the term "healthcare to workers and undertake other duties specified by Order of the Ministry of Health, Labor and Welfare (hereinafter" is deemed to be replaced with "healthcare to workers and undertake other duties specified by Order of the Ministry of Health, Labor and Welfare (with regard to workers being dispatched, excluding duties specified by Order of the Ministry of Health, Labor and Welfare from the relevant duties; in paragraphs (4) and (5), the following Article, and Article 13-3"; in paragraph (4) of the same Article, the term "other information provided" is deemed to be replaced with "other information provided (with regard to workers being dispatched, from relevant pieces of information, excluding information pertaining to particulars specified by Order of the Ministry of Health, Labor and Welfare referred to in paragraph (1))"; and in Article 18, paragraph (1) of the Industrial Safety and Health Act, the term "the following particulars" is deemed to be replaced with "the following particulars (with regard to workers being dispatched, excluding particulars specified by Order of the Ministry of Health, Labor and Welfare from the relevant particulars)."

(2) With regard to the application of the provisions of Article 10, paragraph (1),

Article 12, paragraph (1), Article 12-2, Article 13, paragraphs (1) and (4), and Article 18, paragraph (1) of the Industrial Safety and Health Act in connection with a dispatching undertaking in which workers employed for that undertaking are dispatched for work under a dispatching arrangement in a client undertaking, the term "the following operations" in Article 10, paragraph (1) of the same Act is deemed to be replaced with "the following operations (with regard to workers being dispatched prescribed in Article 44, paragraph (1) of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers (hereinafter referred to as the "Worker Dispatching Act") (hereinafter such a worker is referred to simply as "worker being dispatched"), excluding operations over which the person carrying out the client undertaking as prescribed in Article 44, paragraph (1) of the Worker Dispatching Act appoints a general safety and health manager to exercise overall control pursuant to the provisions of this paragraph as applied by replacing the terms pursuant to the provisions of Article 45, paragraph (1) of the Worker Dispatching Act; such operations are referred to as "safety and health management operations at the client's place of business" in Article 12, paragraph (1) and Article 12-2"; the term "the operations listed in each item of Article 10, paragraph (1)" in Article 12, paragraph (1) and Article 12-2 of the Industrial Safety and Health Act is deemed to be replaced with "safety and health management operations at the client's place of business"; the term "healthcare to workers and undertake other duties specified by Order of the Ministry of Health, Labor and Welfare (hereinafter" in Article 13, paragraph (1) of the same Act is deemed to be replaced with "healthcare to workers and undertake other duties specified by Order of the Ministry of Health, Labor and Welfare (with regard to workers being dispatched, limited to duties specified by Order of the Ministry of Health, Labor and Welfare among the duties mentioned above; in paragraphs (4) and (5), the following Article, and Article 13-3"; the term "other information provided" in paragraph (4) of the same Article is deemed to be replaced with "other information provided (with regard to workers being dispatched, among relevant pieces of information, limited to information pertaining to particulars specified by Order of the Ministry of Health, Labor and Welfare referred to in paragraph (1))"; and the term "the following particulars" in Article 18, paragraph (1) of the Industrial Safety and Health Act is deemed to be replaced with "the following particulars (with regard to workers being dispatched, limited to particulars specified by Order of the Ministry of Health, Labor and Welfare among the relevant particulars)."

(3) With regard to a client undertaking in which workers are dispatched for work under a dispatching arrangement, the provisions of Article 11, Articles 14 through 15-3, Article 17, Articles 20 through 27, Articles 28-2 through 30-3, Article 31-3, Article 36 (limited to the part pertaining to the provisions of

Article 30, paragraphs (1) and (4), Article 30-2, paragraphs (1) and (4), and Article 30-3, paragraphs (1) and (4)), Article 45 (excluding paragraph (2)), Articles 57-3 through 57-5, Article 59, paragraph (3), Article 60, Article 61, paragraph (1), Articles 65 through 65-4, the first sentence and second sentence of Article 66, paragraph (2) (limited to the part pertaining to workers whom the person carrying out the client undertaking is engaged in work specified by Cabinet Order referred to in the second sentence of the same paragraph (including workers being dispatched); hereinafter the same applies in this Article), Article 66, paragraphs (3), (4) (limited to the part pertaining to the provisions of the first sentence and second sentence of paragraph (2) of Article 66 and Article 66, paragraph (3) of the Industrial Safety and Health Act; hereinafter the same applies in this Article), and (5) (limited to the part pertaining to the provisions of the first sentence and second sentence of paragraph (2) of Article 66 and Article 66, paragraphs (3) and (4) of the same Act; hereinafter the same applies in this Article), Article 66-3 (limited to the part pertaining to the provisions of the first sentence and second sentence of paragraph (2) of Article 66 and Article 66, paragraphs (3), (4), and (5) of the same Act; hereinafter the same applies in this Article), Articles 66-8-3, 68, 68-2, and 71-2, Chapter IX, Section 1, and Articles 88 through 89-2 of the Industrial Safety and Health Act and the provisions of orders based on those provisions (including penal provisions pertaining to those provisions) apply, by deeming the person carrying out the client undertaking to be the employer of the relevant workers being dispatched and deeming those workers being dispatched to be workers employed by the person carrying out the client undertaking. In this case, the term "the provisions of this Act or an order under this Act" in Article 29, paragraph (1) of the same Act is deemed to be replaced with "the provisions of this Act or orders based on this Act (including as applied pursuant to the provisions of Article 45 of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers (hereinafter referred to as the "Worker Dispatching Act")), or the provisions of paragraph (10) of the same Article or orders based on the provisions of the same paragraph"; the term "the provisions of this Act or an order based on this Act" in paragraph (2) of the same Article is deemed to be replaced with "the provisions of this Act or orders based on this Act (including as applied pursuant to the provisions of Article 45 of the Worker Dispatching Act), or the provisions of paragraph (10) of the same Article or orders based on the provisions of the same paragraph"; the term "this Act or an order hereunder" in Article 30, paragraph (1), item (v) and Article 88, paragraph (6) of the Industrial Safety and Health Act is deemed to be replaced with "the provisions of this Act or orders based on this Act (including as applied pursuant to the provisions of Article 45 of the Worker Dispatching Act)"; the

term "paragraphs (1) through (4) of Article 66, proviso in paragraph (5) and Article 66-2" in Article 66-4 of the Industrial Safety and Health Act is deemed to be replaced with "the first sentence or second sentence of paragraph (2) of Article 66 (limited to the part pertaining to workers whom a person carrying out a client undertaking has caused to be engaged in the work specified by Cabinet Order referred to in the second sentence of the same paragraph (including workers being dispatched prescribed in Article 44, paragraph (1) of the Worker Dispatching Act); hereinafter the same applies in this Article), Article 66, paragraphs (3) and (4) (limited to the part pertaining to the provisions of the first sentence and second sentence of paragraph (2) of Article 66 and Article 66, paragraphs (3) and (4); hereinafter the same applies in this Article), or the proviso to Article 66, paragraph (5) (limited to the part pertaining to the provisions of the first sentence and second sentence of paragraph (2) of Article 66 and Article 66, paragraphs (3) and (4))"; and the term "paragraph (1) of Article 66-8" in Article 66-8-3 of the Industrial Safety and Health Act is deemed to be replaced with "Article 66-8, paragraph (1), an employer for a dispatching undertaking (referring to the dispatching undertaking prescribed in Article 44, paragraph (3) of the Worker Dispatching Act)."

- (4) With regard to a person having been deemed, pursuant to the provisions of the preceding paragraph, to be the employer of workers being dispatched, the provisions of Article 45, paragraph (2) of the Industrial Safety and Health Act applies by replacing the term "employer" in the same paragraph with "a person having been deemed to be the employer of workers being dispatched prescribed in Article 44, paragraph (1) of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers, pursuant to the provisions of Article 45, paragraph (3) of the same Act."
- (5) With regard to the application of the provisions of the first sentence of paragraph (3) concerning a dispatching undertaking in which workers employed for the undertaking are dispatched for work under a dispatching arrangement in a client undertaking and of the provisions of Article 45, paragraph (2) of the Industrial Safety and Health Act, the business operator of the dispatching undertaking concerned is deemed not as employing the relevant workers being dispatched, and those workers being dispatched are deemed not employed by the business operator of the relevant dispatching undertaking.
- (6) A business operator of a dispatching undertaking must not carry out worker dispatch, if, when carrying out the worker dispatch, the person deemed to be the employer of a worker dispatched for work under a dispatching arrangement under the relevant undertaking pursuant to the provisions of paragraph (3), is to cause the dispatched worker being dispatched under the arrangement to

work in accordance with the conditions of work under a dispatching arrangement prescribed in the worker dispatch contract for the worker dispatch concerned, and this would result in a conflict with the provisions of Article 59, paragraph (3), Article 61, paragraph (1), Article 65-4, or Article 68 of the Industrial Safety and Health Act (simply referred to as "the provisions of the Industrial Safety and Health Act" in the following paragraph) as applied pursuant to the provisions of paragraph (3) above.

- (7) If a business operator of a dispatching undertaking has violated the provisions of the preceding paragraph (limited to a case where, with regard to a worker being dispatched under the dispatching arrangement concerned, the person deemed to be the employer of the worker being dispatched pursuant to the provisions of paragraph (3) has come in conflict with the relevant provisions of the Industrial Safety and Health Act), the business operator of the dispatching undertaking concerned is deemed to have violated the provisions of the Industrial Safety and Health Act, and the provisions of Articles 119 and 122 of the same Act apply.
- (8) With regard to a client undertaking for which workers are dispatched for work under a dispatching arrangement in that undertaking, in addition to what is prescribed in paragraphs (1), (3), and (4), the following provisions apply to the client undertaking by replacing the following terms in the manner set forth below, respectively: in Article 5, paragraph (1) of the Industrial Safety and Health Act, the term "employers" is deemed to be replaced with "employers (including a person carrying out a client undertaking prescribed in Article 44, paragraph (1) of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers (hereinafter referred to as the "Worker Dispatching Act") (hereinafter such employer is referred to as a "client business operator"))"; in paragraph (4) of the same Article, the term "employer in those undertakings" is deemed to be replaced with "employer in those undertakings or the person deemed to be the employer under those undertakings pursuant to the provisions of Article 45 of the Worker Dispatching Act," the term "employed solely by the representative" is deemed to be replaced with "workers employed solely by the representative and not by a person other than the representative among relevant employers under those undertakings (including the client business operator)," and the term "this Act" is deemed to be replaced with "this Act (including as applied pursuant to the provisions of Article 45 of the Worker Dispatching Act)"; in Article 16, paragraph (1) of the Industrial Safety and Health Act, the term "paragraph (1) or (3) of Article 15" is deemed to be replaced with "Article 15, paragraph (1) or (3) as applied pursuant to the provisions of Article 45, paragraph (3) of the Worker Dispatching Act"; in Article 19 of the Industrial Safety and Health Act and Article 17, paragraph (4) as applied mutatis mutandis pursuant to

paragraph (4) of Article 19, the term "employer" is deemed to be replaced with "client business operator"; in Article 19, paragraph (1) of the Industrial Safety and Health Act, the term "Article 17 and the preceding Article" is deemed to be replaced with "Article 17 and the preceding Article as applied pursuant to the provisions of Article 45 of the Worker Dispatching Act"; and in Article 19, paragraphs (2) and (3) and Article 17, paragraphs (4) and (5) as applied mutatis mutandis pursuant to Article 19, paragraph (4), the term "workers" is deemed to be replaced with "workers (including workers being dispatched prescribed in Article 44, paragraph (1) of the Worker Dispatching Act)."

(9) With regard to the application of the provisions of Article 19, paragraph (1) of the Industrial Safety and Health Act in relation to a dispatching undertaking in which workers employed for that undertaking are dispatched for work under a dispatching arrangement in a client undertaking, the term "Article 17 and the preceding Article" in the same paragraph is deemed to be replaced with "Article 17 and the preceding Article as applied pursuant to the provisions of Article 45 of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers."

(10) A person deemed to be an employer of workers being dispatched pursuant to the provisions of paragraph (3) (including a person deemed to be such employer pursuant to the provisions of Article 5, paragraph (4) of the Industrial Safety and Health Act applied by replacing the terms pursuant to the provisions of paragraph (8)) must without delay, after having conducted a medical examination of those workers being dispatched under the provisions of paragraph (2), (3), or (4) of Article 66 of the same Act as applied pursuant to the provisions of paragraph (3), or upon the submission of documents certifying the results of the medical examination under the provisions of the proviso to paragraph (5) of the same Article by those workers being dispatched, prepare documents stating the results of the medical examination based on records pertaining to the workers being dispatched under the provisions of Article 66-3 and send the documents to the business operator of the dispatching undertaking concerned, pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare.

(11) Upon receiving the documents referred to in the preceding paragraph pursuant to the provisions of the same paragraph, the business operator of the dispatching undertaking must retain the documents concerned pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare.

(12) Any person that violates the provisions of the preceding two paragraphs is punished by a fine of not more than 300,000 yen.

(13) If a representative of a corporation, or an agent, employee, or other worker of a corporation or individual, commits a violation referred to in the preceding paragraph in connection with the business of the corporation or individual, in

addition to the offender being subject to punishment, the corporation or individual is subject to the fine referred to in the same paragraph.

(14) The person referred to in paragraph (10) must, upon obtaining the opinion of a physician or dentist pursuant to the provisions of Article 66-4 of the Industrial Safety and Health Act as applied to workers being dispatched pursuant to the provisions of paragraph (3), notify without delay the business operator of the relevant dispatching undertaking of the opinion pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare.

(15) With regard to the special application of the Industrial Safety and Health Act under the provisions of each of the preceding paragraphs, the following provisions (including penal provisions related to these provisions) apply by replacing the following terms in the manner set forth below, respectively: the term "employers" in Article 9 of the same Act is deemed to be replaced with "employers (including persons carrying out client undertakings prescribed in Article 44, paragraph (1) of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers (hereinafter referred to as the "Worker Dispatching Act") (hereinafter such a person is referred to as a "client business operator")); hereinafter the same applies in this Article); the term "employers" in Article 28, paragraph (4), Article 32, paragraphs (1) through (4), Article 33, paragraph (1), Article 34, Article 63, Article 66-5, paragraph (3), Article 70-2, paragraph (2), Article 71-3, paragraph (2), Article 71-4, Article 93, paragraphs (2) and (3), Article 97, paragraph (2), Article 98, paragraph (1), Article 99, paragraph (1), Article 99-2, paragraphs (1) and (2), Articles 100 through 102, Article 104, paragraphs (1), (2), and (4), Article 106, paragraph (1), and Article 108-2, paragraph (3) of the Industrial Safety and Health Act is deemed to be replaced with "employers (including client business operators)"; the term "workers employed by" in Article 31, paragraph (1) of the same Act is deemed to be replaced with "workers (including workers being dispatched prescribed in Article 44, paragraph (1) of the Worker Dispatching Act (hereinafter simply referred to as a "worker being dispatched") employed by)"; the term "workers" in Articles 31-2 and 31-4 and Article 32, paragraphs (4), (6), and (7) of the Industrial Safety and Health Act is deemed to be replaced with "workers (including workers being dispatched)"; the term "the provisions of this Act or an order issued under this Act" in Article 31-4 and Article 97, paragraph (1) of the Industrial Safety and Health Act is deemed to be replaced with "the provisions of this Act or orders based on this Act (including as applied pursuant to the provisions of Article 45 of the Worker Dispatching Act), or the provisions of paragraph (6), (10), or (11) of the same Article or the provisions of orders based on these provisions"; the term "this Act" in Article 90, Article 91, paragraph (1), and Article 100 of the Industrial Safety and Health Act is deemed to be replaced with "the provisions

of this Act and Article 45 of the Worker Dispatching Act"; the term "crime that violates this Act" in Article 92 of the Industrial Safety and Health Act is deemed to be replaced with "crime (including the crimes referred to in Articles 119 and 122, which are applicable under the provisions of Article 45, paragraph (7) of the Worker Dispatching Act) that violates this Act (including as applied pursuant to the provisions of Article 45 of the Worker Dispatching Act) and the crimes referred to in Article 45, paragraphs (12) and (13) of the Worker Dispatching Act"; the term "Article 34" in Article 98, paragraph (1) of the Industrial Safety and Health Act is deemed to be replaced with "Article 34 (including as applied pursuant to the provisions of Article 45 of the Worker Dispatching Act)"; the term "this Act" in Article 101, paragraph (1) of the Industrial Safety and Health Act is deemed to be replaced with "this Act (including the provisions of Article 45 of the Worker Dispatching Act)"; the term "the provisions of this Act or an order under this Act" in Article 103, paragraph (1) of the Industrial Safety and Health Act is deemed to be replaced with "the provisions of this Act or an order under this Act (including as applied pursuant to the provisions of Article 45 of the Worker Dispatching Act)"; the term "the provisions of this Act or an order under this Act" in Article 104, paragraph (1) of the Industrial Safety and Health Act is deemed to be replaced with "the provisions of this Act or an order under this Act (including as applied pursuant to the provisions of Article 45 of the Worker Dispatching Act), or the provisions of paragraph (10) or (11) of the same Article or the provisions of orders based on these provisions"; the term "(excluding the provisions of Chapter II)" in Article 115, paragraph (1) of the Industrial Safety and Health Act is deemed to be replaced with "(excluding the provisions of Chapter II) and the provisions of Article 45 of the Worker Dispatching Act."

- (16) With regard to the application of the provisions of the Industrial Safety and Health Act, which is applied pursuant to the provisions of paragraphs (1) through (5), paragraphs (7) through (9), and the immediately preceding paragraph, to a person that has violated the Industrial Safety and Health Act or the provisions of orders based on the same Act, or a person that has violated the provisions of paragraph (6), (10), or (11) or the provisions of orders based on these provisions, the term "the provisions of this Act or an order under this Act" in Article 46, paragraph (2), item (i) of the same Act is deemed to be replaced with "the provisions of this Act or an order under this Act (including as applied pursuant to the provisions of Article 45 of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers (hereinafter referred to as the "Worker Dispatching Act")), or the provisions of paragraph (6), (10), or (11) of the same Article or the provisions of orders based on these provisions"; the term "the provisions of paragraph (1) or (2) of Article 45 or an order under those provisions" in Article 54-3, paragraph

(2), item (i) of the Industrial Safety and Health Act is deemed to be replaced with "the provisions of Article 45, paragraph (1) or (2) or of an order based on these provisions (including as applied pursuant to the provisions of Article 45, paragraphs (3) and (4) of the Worker Dispatching Act)"; the term "the provisions of this Act, an order under this Act or administrative dispositions under these provisions" in Article 56, paragraph (6) of the Industrial Safety and Health Act is deemed to be replaced with "the provisions of this Act or an order under this Act (including as applied pursuant to the provisions of Article 45 of the Worker Dispatching Act), administrative dispositions under these provisions, the provisions of paragraph (6), (10), or (11) of the same Article, or the provisions of orders based on these provisions"; the term "the provisions of this Act or an order under this Act" in Article 74-2, paragraph (2), item (ii), Article 75-3, paragraph (2), item (iii) (including as applied mutatis mutandis pursuant to Articles 83-3 and 85-3 of the Industrial Safety and Health Act), Article 84, paragraph (2), item (ii), and Article 99-3, paragraph (1) of the Industrial Safety and Health Act is deemed to be replaced with "the provisions of this Act or orders based on this Act (including as applied pursuant to the provisions of Article 45 of the Worker Dispatching Act), or the provisions of paragraph (6), (10), or (11) of the same Article or the provisions of orders based on these provisions"; the term "this Act (including the orders issued or dispositions taken thereunder)" in Article 75-4, paragraph (2) (including as applied mutatis mutandis pursuant to Articles 83-3 and 85-3 of the Industrial Safety and Health Act) and Article 75-5, paragraph (4) of the Industrial Safety and Health Act (including as applied mutatis mutandis pursuant to Article 83-3 of the same Act) is deemed to be replaced with "the provisions of this Act or orders based on this Act (including as applied pursuant to the provisions of Article 45 of the Worker Dispatching Act), administrative dispositions under these provisions, the provisions of paragraph (6), (10), or (11) of the same Article, or the provisions of orders based on these provisions"; and the term "this Act or an order hereunder" in Article 84, paragraph (2), item (iii) of the Industrial Safety and Health Act is deemed to be replaced with "this Act and orders based on this Act (including as applied pursuant to the provisions of Article 45 of the Worker Dispatching Act), and the Worker Dispatching Act (limited to the provisions of paragraphs (6), (10), and (11) of the same Article) and orders based thereon."

(17) Technical replacements and other necessary particulars for the application of the provisions of the Industrial Safety and Health Act and orders based thereon pursuant to the provisions of this Article are prescribed by orders.

(Special Application of the Pneumoconiosis Act)

Article 46 (1) With regard to a client undertaking involving dust work prescribed

in Article 2, paragraph (1), item (iii) of the Pneumoconiosis Act (Act No. 30 of 1960) (hereinafter such work is referred to as "dust work" in this Article), in relation to which workers are dispatched for work under a dispatching arrangement, the provisions of Articles 5 through 9-2, Articles 11 through 14, Article 15, paragraph (3), Articles 16 through 17, and Article 35-2 of the same Act (including penal provisions pertaining to these provisions) apply to such undertaking, by deeming the person carrying out the client undertaking to be the business operator, as prescribed in Article 2, paragraph (1), item (v) of the same Act, employing the workers being dispatched (limited to those who are or have been regularly engaged in dust work; hereinafter the same applies up to paragraph (4) and in paragraph (7)) (hereinafter such business operator is simply referred to as a "business operator" in this Article), and by deeming the workers being dispatched to be workers employed by the person carrying out the client undertaking concerned. In this case, the term "separation from employment" in of Article 9-2, paragraph (1) of the above-mentioned Act is deemed to be replaced with "separation from employment (with regard to a worker being dispatched prescribed in Article 46, paragraph (1) of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers (hereinafter referred to as the "Worker Dispatching Act"), the termination of the provision of worker dispatching services, as prescribed in Article 2, item (i) of the Worker Dispatching Act, involving the worker being dispatched; hereinafter the same applies in this paragraph)"; and the term "this Act" in Article 35-2 of the Pneumoconiosis Act is deemed to be replaced with "this Act (including the provisions of Article 46 of the Worker Dispatching Act)."

- (2) With regard to the application of the provisions set forth in the first sentence of the preceding paragraph concerning a dispatching undertaking (limited to that involving dust work) in which workers employed for that undertaking are dispatched for work under a dispatching arrangement in a client undertaking (limited to that involving dust work), the business operator of the dispatching undertaking concerned is deemed not to be employing the relevant workers being dispatched, and the relevant workers being dispatched are deemed not to be employed by the business operator of the dispatching undertaking.
- (3) When the provisions of the Pneumoconiosis Act are applied pursuant to the provisions of paragraph (1), the provisions of Article 10 of that Act apply by replacing the following terms in the manner set forth below, respectively: in the same Article, the term "A business operator may, having conducted a pneumoconiosis examination" is deemed to be replaced with "A person carrying out a client undertaking prescribed in Article 44, paragraph (1) of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers (hereinafter such undertaking is simply referred to as a

"client undertaking") may, having conducted a pneumoconiosis examination for workers being dispatched prescribed in Article 46, paragraph (1) of the same Act"; and the term "in Article 66, paragraph (1) or (2) of the Industrial Safety and Health Act" is deemed to be replaced with "in Article 66, paragraphs (1) or (2) of the Industrial Safety and Health Act in the case of a person carrying out a dispatching undertaking prescribed in Article 44, paragraph (3) of the same Act, and in paragraph (2) of the same Article in the case of a person carrying out a client undertaking."

- (4) With regard to work under a dispatching arrangement in an undertaking involving dust work in which workers being dispatched are engaged, the provisions of Articles 20-2 through 21 and Article 22-2 of the Pneumoconiosis Act (including penal provisions pertaining to the provisions of Article 21 of the same Act) apply by deeming the person carrying out the dispatching undertaking concerned (excluding a person that is a business operator; the same applies in the following paragraph and paragraph (6)) to be the business operator, by deeming the person carrying out the relevant client undertaking to also be the business operator employing the relevant workers being dispatched, and by deeming the relevant workers being dispatched to be workers also employed by the person carrying out the relevant client undertaking.
- (5) With regard to work under a dispatching arrangement in an undertaking involving dust work in which workers being dispatched are engaged, the provisions of Article 22 of the Pneumoconiosis Act (including penal provisions pertaining to the provisions of the same Article) apply by deeming the person carrying out the dispatching undertaking to be the business operator.
- (6) Among workers who are actually employed by a person carrying out a dispatching undertaking and have been regularly engaged in dust work in a client undertaking, with regard to those other than workers regularly engaged in dust work (excluding persons regularly engaged in work other than dust work in the client undertaking concerned), the provisions of Articles 8 through 14, Article 15, paragraph (3), Articles 16 through 17, and Articles 20-2, 22-2, and 35-2 of the Pneumoconiosis Act (including penal provisions pertaining to these provisions) apply by deeming the person carrying out the dispatching undertaking to be the business operator. In this case, in Article 10 of the same Act, the term "A business operator may, having conducted a pneumoconiosis examination" is deemed to be replaced with "A person carrying out a dispatching undertaking prescribed in Article 44, paragraph (3) of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers (hereinafter referred to as the "Worker Dispatching Act") (hereinafter such undertaking is simply referred to as a "dispatching undertaking") may, having conducted a pneumoconiosis examination for

workers being dispatched prescribed in paragraph (1) of the same Article or for those who were such workers being dispatched prescribed in the same paragraph," and the term "in Article 66, paragraphs (1) or (2) of the Industrial Safety and Health Act" is deemed to be replaced with "in Article 66, paragraphs (1) or (2) of the Industrial Safety and Health Act in the case of a person carrying out a dispatching undertaking, and in Article 66, paragraph (2) of the Industrial Safety and Health Act in the case of a person carrying out a client undertaking prescribed in Article 44, paragraph (1) of the Worker Dispatching Act"; and the term "this Act" in Article 35-2 of the Pneumoconiosis Act is deemed to be replaced with "this Act (including the provisions of Article 46 of the Worker Dispatching Act)."

- (7) A person deemed to be a business operator employing workers being dispatched pursuant to the provisions of paragraph (1) must, upon conducting a pneumoconiosis examination for the workers being dispatched or upon receiving documents certifying the results of pneumoconiosis examinations or other documents submitted by the workers being dispatched pursuant to the provisions of the proviso to Article 11 of the Pneumoconiosis Act as applied pursuant to the provisions of paragraph (1), prepare documents stating the results of the pneumoconiosis examinations concerned based on records pertaining to the workers being dispatched concerned, which are prepared pursuant to the provisions of Article 17, paragraph (1) of the same Act as applied pursuant to the provisions of paragraph (1), pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare, and must, upon receiving notification under the provisions of Article 14, paragraph (1) of the same Act (including as applied mutatis mutandis pursuant to Article 15, paragraph (3), Article 16, paragraph (2), and Article 16-2, paragraph (2) of the same Act) as applied pursuant to the provisions of paragraph (1), prepare documents stating the contents of the notification concerned pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare and, without delay, send those documents to the person carrying out the relevant dispatching undertaking.
- (8) Upon receiving the documents referred to in the preceding paragraph pursuant to the provisions of the same paragraph, the person carrying out the relevant dispatching undertaking must retain the documents pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare.
- (9) If a worker being dispatched, who is engaged in work under a dispatching arrangement in an undertaking involving dust work and is regularly engaged in dust work (excluding a worker whose classification for supervision of pneumoconiosis has been determined to be No. II, No. III, or No. IV), is diagnosed, in a medical examination referred to in Article 66, paragraphs (1) or (2) of the Industrial Safety and Health Act (excluding one conducted by the

person carrying out the relevant client undertaking), with pneumoconiosis prescribed in Article 2, paragraph (1), item (i) of the Pneumoconiosis Act (hereinafter simply referred to as "pneumoconiosis") or with suspected pneumoconiosis, the person carrying out the dispatching undertaking concerned must inform the person carrying out the client undertaking concerned to that effect without delay.

- (10) Any person that has violated the provisions of the preceding three paragraphs is punished by a fine of not more than 300,000 yen.
- (11) If a representative of a corporation, or an agent, employee, or other worker of a corporation or individual, commits a violation referred to in the preceding paragraph in connection with the business of the corporation or individual, in addition to the offender being subject to punishment, the corporation or individual is subject to the fine referred to in the same paragraph.
- (12) With regard to the special application of the Pneumoconiosis Act under the provisions of each of the preceding paragraphs, the following provisions (including penal provisions relating to these provisions) apply by replacing the following terms in the manner set forth below, respectively: the term "the business operator" in Article 32, paragraph (1) of the same Act is deemed to be replaced with "the business operator (including a person deemed to be the business operator pursuant to the provisions of Article 46 of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers (hereinafter referred to as the "Worker Dispatching Act")); referred to as "the business operator and equivalent" in Article 35-3, paragraphs (1), (2), and (4), Article 43-2, paragraph (2), and Article 44"; the term "business operator" in Article 35-3, paragraphs (1), (2), and (4) of the Pneumoconiosis Act is deemed to be replaced with "the business operator and equivalent"; the term "the provisions of this Act or of orders based on this Act" in paragraphs (1) of the same Article is deemed to be replaced with "the provisions of this Act or of orders based on this Act (including as applied pursuant to the provisions of Article 46 of the Worker Dispatching Act), or the provisions of paragraphs (7) through (9) of the same Article or the provisions of orders based on these provisions"; the term "This Act" in Article 39, paragraphs (2) and (3) of the Pneumoconiosis Act is deemed to be replaced with "This Act (including as applied pursuant to the provisions of Article 46 of the Worker Dispatching Act)"; the term "paragraph (4) of Article 21" in paragraph (3) of the same Article is deemed to be replaced with "Article 21, paragraph (4) (including as applied pursuant to the provisions of Article 46, paragraph (4) of the Worker Dispatching Act)"; the term "the place of business at which dust work is performed" in Article 40, paragraph (1) of the Pneumoconiosis Act is deemed to be replaced with "the place of business at which dust work is performed (including the place of business of a person deemed to be a business

operator pursuant to the provisions of Article 46 of the Worker Dispatching Act; the same applies in Article 42, paragraph (1))"; the term "this Act" in Article 41 and Article 42, paragraph (1) of the Pneumoconiosis Act is deemed to be replaced with "this Act and the provisions of Article 46 of the Worker Dispatching Act"; the term "a violation of the provisions of this Act" in Article 43 of the Pneumoconiosis Act is deemed to be replaced with "a violation of the provisions of this Act (including as applied pursuant to the provisions of Article 46 of the Worker Dispatching Act) and the crimes referred to in paragraphs (10) and (11) of the same Article"; the term "the provisions of this Act or of orders based on this Act" in Article 43-2, paragraph (1) of the Pneumoconiosis Act is deemed to be replaced with "the provisions of this Act or of orders based on this Act (including as applied pursuant to the provisions of Article 46 of the Worker Dispatching Act), or the provisions of paragraphs (7) through (9) of the same Article or the provisions of orders based on these provisions"; and the term "the business operator" in paragraph (2) of the same Article and Article 44 of the Pneumoconiosis Act is deemed to be replaced with "the business operator and equivalent."

(13) With regard to the application of the provisions of Article 10 of the Pneumoconiosis Act when a person carrying out a dispatching undertaking is a business operator and has conducted a pneumoconiosis examination for workers being dispatched, the term "The business operator" in the same Article is deemed to be replaced with "A person carrying out a dispatching undertaking prescribed in Article 44, paragraph (3) of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers (hereinafter referred to as the "Worker Dispatching Act") (hereinafter such undertaking is simply referred to as a "dispatching undertaking)"; and the term "in paragraph (1) or (2) of Article 66 of the Industrial Safety and Health Act" is deemed to be replaced with "in Article 66, paragraphs (1) or (2) of the Industrial Safety and Health Act in the case of a person carrying out a dispatching undertaking and in Article 66, paragraph (2) of the Industrial Safety and Health Act in the case of a person carrying out a client undertaking prescribed in Article 44, paragraph (1) of the Worker Dispatching Act."

(14) Technical replacements and other necessary particulars for the application of the provisions of the Pneumoconiosis Act and orders based thereon pursuant to the provisions of this Article are prescribed by orders.

(Special Application of the Working Environment Measurement Act)

Article 47 (1) With regard to a person deemed to be a business operator employing workers being dispatched under the provisions of Article 45, paragraph (3), the provisions of Chapter I, Article 8, paragraph (2) (including as applied mutatis mutandis pursuant to Article 34, paragraph (2) of the

Working Environment Measurement Act (Act No. 28 of 1975)), and Chapters IV and V of the same Act apply by deeming such person to be included in the concept of the business operator prescribed in Article 2, item (i) of the same Act. In this case, the term "Article 65, paragraph (1) of the Industrial Safety and Health Act" in Article 3, paragraph (1) of the Working Environment Measurement Act is deemed to be replaced with "Article 65, paragraph (1) of the Industrial Safety and Health Act (including as applied pursuant to the provisions of Article 45, paragraph (3) of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers; the same applies in the following Article)."

(2) With regard to the application of the provisions of the Working Environment Measurement Act to persons that have violated the provisions of the Industrial Safety and Health Act or orders based thereon as applied pursuant to the provisions of Article 45, the provisions of paragraphs (6), (10), or (11) of the same Article or the provisions of orders based on these provisions, or the provisions of the Working Environment Measurement Act or of orders based thereon as applied pursuant to the provisions of the preceding paragraph, the term "the provisions of this Act or the Industrial Safety and Health Act (including orders thereunder)" in Article 6, item (iii) of the Working Environment Measurement Act is deemed to be replaced with "the provisions of this Act, the Industrial Safety and Health Act, or orders based on these Acts (including as applied pursuant to the provisions of Article 45 or 47 of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers (hereinafter referred to as the "Worker Dispatching Act")), or the provisions of Article 45, paragraph (6), (10), or (11) of the Worker Dispatching Act or the provisions of orders based on these provisions"; the term "the provisions of this Act or the Industrial Safety and Health Act (including orders thereunder)" in Article 21, paragraph (2), item (v), (a) of the Working Environment Measurement Act (including as applied mutatis mutandis pursuant to Article 32-2, paragraph (4) of the same Act) is deemed to be replaced with "the provisions of this Act, the Industrial Safety and Health Act, or orders based on these Acts (including as applied pursuant to the provisions of Article 45 or 47 of the Worker Dispatching Act), or the provisions of Article 45, paragraph (6), (10), or (11) of the Worker Dispatching Act or the provisions of orders based on these provisions"; the term "this Act or the Industrial Safety and Health Act (including orders and dispositions thereunder)" in Article 23, paragraph (2) (including as applied mutatis mutandis pursuant to Article 32-2, paragraph (4) of the Working Environment Measurement Act) and Article 24, paragraph (4) of the Working Environment Measurement Act is deemed to be replaced with "the provisions of this Act, the Industrial Safety and Health Act, or orders based on these Acts (including as

applied pursuant to the provisions of Article 45 or 47 of the Worker Dispatching Act), dispositions under these provisions, or the provisions of Article 45, paragraph (6), (10), or (11) of the Worker Dispatching Act or the provisions of orders based on these provisions", and the term "this Act or the Working Environment Measurement Act, or orders thereunder" in Article 32, paragraph (3) and Article 34, paragraph (1) of the Working Environment Measurement Act is deemed to be replaced with "this Act or the Working Environment Measurement Act, the provisions of orders based on these Acts (including as applied pursuant to the provisions of Article 45 or 47 of the Worker Dispatching Act), or the provisions of Article 45, paragraph (6), (10), or (11) of the Worker Dispatching Act or orders based on these provisions."

(3) Technical replacements and other necessary particulars for the application of the provisions of the Working Environment Measurement Act pursuant to the provisions of this Article are prescribed by orders.

(Special Application of the Act on Ensuring Equal Opportunities for and Treatment of Men and Women in Employment)

Article 47-2 With regard to work performed by dispatched workers whom a person receiving worker dispatching services causes to work under the instructions thereof under a worker dispatching arrangement, the provisions of Article 9, paragraph (3), Article 11, paragraph (1), Article 11-2, paragraph (2), Article 11-3, paragraph (1), Article 11-4, paragraph (2), Article 12, and Article 13, paragraph (1) of the Act on Ensuring Equal Opportunities for and Treatment of Men and Women in Employment (Act No. 113 of 1972) apply to such a person receiving worker dispatching business by deeming that person to also be a business operator employing relevant dispatched workers. In this case, the term "in terms of employment management" in Article 11, paragraph (1) and Article 11-3, paragraph (1) of the same Act is deemed to be replaced with "in terms of employment management and instructions."

(Special Application of the Act on Childcare Leave, Caregiver Leave, and Other Measures for the Welfare of Workers Caring for Children or Other Family Members)

Article 47-3 With regard to work performed by dispatched workers whom a person receiving worker dispatching services causes the dispatching business operator to work under the instructions thereof under a worker dispatching arrangement, the provisions of Article 10 (including as applied mutatis mutandis pursuant to Articles 16, 16-4, and 16-7 of the Act on Childcare Leave, Caregiver Leave, and Other Measures for the Welfare of Workers Caring for Children or Other Family Members), Articles 16-10, 18-2, 20-2, and 23-2, Article 25, paragraph (1), and Article 25-2, paragraph (2) of the same Act apply

to such a person receiving worker dispatching business by deeming that person to also be an undertaking employing relevant dispatched workers. In this case, the term "employment management" in Article 25, paragraph (1) of the same Act is deemed to be replaced with "employment management and instructive."

(Special Application of the Act on Comprehensive Promotion of Labor Policies, Stability of Employment of Workers, and Enhancement of Vocational Life)
Article 47-4 With regard to work performed by dispatched workers that a person receiving worker dispatching business causes to work under the instructions thereof under a worker dispatching arrangement, the provisions of Article 30-2, paragraph (1) and Article 30-3, paragraph (2) of the Act on Comprehensive Promotion of Labor Policies, Stability of Employment of Workers and Enhancement of Vocational Life (Act No. 132 of 1966) apply to such a person receiving worker dispatching business by deeming that person to also be a business operator employing relevant dispatched workers. In this case, the term "in terms of employment management" in Article 30-2, paragraph (1) of the same Act is deemed to be replaced with "in terms of employment management and instructions."

Chapter IV Resolution of Disputes

(Voluntary Resolution of Complaints)

Article 47-5 (1) When a dispatching business operator receives a complaint from a dispatched worker with regard to any of the particulars prescribed in Articles 30-3 and 30-4 and Article 31-2, paragraphs (2) through (5) or is notified, by a client, of the details of a complaint submitted to the client by a dispatched worker with regard to any of the above-mentioned particulars, the operator must endeavor to voluntarily resolve the complaint.

(2) When receiving a complaint from a dispatched worker with regard to any of the particulars prescribed in Article 40, paragraphs (2) and (3), a client must endeavor to voluntarily resolve the complaint.

(Special Provisions for Promotion of Resolution of Disputes)

Article 47-6 Any dispute between a dispatched worker and a dispatching business operator with regard to any of the particulars referred to in paragraph (1) of the preceding Article and any dispute between a dispatched worker and a client with regard to any of the matters referred to in paragraph (2) of the same Article are governed by the provisions of the following Article through Article 47-10, and the provisions of Articles 4 and 5 and Articles 12 through 19 of the Act on Promoting the Resolution of Individual Labor-Related Disputes (Act No. 112 of 2001) do not apply to such disputes.

(Assistance in Resolution of Disputes)

Article 47-7 (1) At the request of both or either of the parties to a dispute referred to in the preceding Article for assistance in the resolution of the dispute, the relevant prefectural labor director may give the parties to the dispute necessary advice, guidance, or recommendations.

(2) It is prohibited for any dispatching business operator or client to disadvantageously treat any dispatched worker on the ground of the worker's request for the assistance referred to in the preceding paragraph.

(Delegation of Conciliation)

Article 47-8 (1) On finding that it is necessary to do so in order to resolve a dispute as prescribed in Article 47-6 when both or either of the parties to the dispute files an application for conciliation, the relevant prefectural labor director is to have the dispute coordinating committee set forth in Article 6, paragraph (1) of the Act on Promoting the Resolution of Individual Labor-Related Disputes conduct the conciliation.

(2) The provisions of paragraph (2) of the preceding Article apply mutatis mutandis in the case where a dispatched worker files an application as referred to in the preceding paragraph.

(Conciliation)

Article 47-9 The provisions of Articles 19 through 26 of the Act on Ensuring Equal Opportunities for and Treatment of Men and Women in Employment apply mutatis mutandis to the procedure of the conciliation referred to in paragraph (1) of the preceding Article. In this case, the term "paragraph (1) of the preceding Article" in Article 19, paragraph (1) of the same Act is deemed to be replaced with "Article 47-8, paragraph (1) of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers (Act No. 88 of 1985); the term "workplace" in Article 20 of the Act on Ensuring of Equal Opportunities for and Treatment of Men and Women in Employment is deemed to be replaced with "place of business"; and the term "Article 18, paragraph (1)" in Article 25, paragraph (1) of the same Act is deemed to be replaced with "Article 47-6 of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers."

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

Article 47-10 Beyond what is prescribed in this Section, necessary particulars concerning the conciliation procedure are prescribed by Order of the Ministry of Health, Labor and Welfare.

Chapter V Miscellaneous Provisions

(Responsibilities of Business Operators' Associations)

- Article 47-11 (1) An association consisting of dispatching business operators as its direct or indirect members (such a dispatching business operator is hereinafter referred to as a "member" in this paragraph, and such an association is referred to as a "business operators' association" in the following paragraph) must endeavor to give its members assistance such as necessary advice and cooperation in order to secure the proper operation of worker dispatching business and ensure the protection, etc. of dispatched workers.
- (2) The national government is to endeavor to give business operators' associations necessary advice and cooperation to secure dispatching business operators' proper operation of worker dispatching business and ensure the protection, etc. of dispatched workers.

(Guidelines)

- Article 47-12 With regard to measures to be taken by a dispatching business operator and a client pursuant to the provisions of Article 24-3 and Chapter III, Sections 1 through 3, the Minister of Health, Labor and Welfare is to publish necessary guidelines for the proper and effective implementation of such measures.

(Guidance and Advice)

- Article 48 (1) The Minister of Health, Labor and Welfare may, when finding it necessary for the enforcement of this Act (except for the provisions of Chapter III, Section 4; the same applies in Article 49-3, paragraph (1), Article 50, and Article 51, paragraph (1)), provide persons in control of the business of carrying out worker dispatch and persons receiving worker dispatching services with necessary guidance and advice for securing the proper operation of worker dispatching business or for proper work under a dispatching arrangement.
- (2) The Minister of Health, Labor and Welfare may, when finding it necessary for the proper adjustment of labor demand and supply in the case where a worker dispatching business is carried out with the object of providing worker dispatching business solely to specified persons (except in cases specified by Order of the Ministry of Health, Labor and Welfare referred to in Article 7, paragraph (1), item (i)), recommend the relevant dispatching business operator to change the object and contents of the worker dispatching business.
- (3) If, after the Minister of Health, Labor and Welfare has given guidance or advice under the provisions of paragraph (1) to a dispatching business operator violating the provisions of Article 23, paragraph (3), Article 23-2, or Article 30,

paragraph (1) as applied pursuant to paragraph (2) of the same Article following the deemed replacement of terms, the operator is still in violation of the above-mentioned provisions concerned, the Minister of Health, Labor and Welfare may instruct the operator to take necessary measures.

(Order for Improvement)

Article 49 (1) In the case where, with regard to a worker dispatching business, a dispatching business operator has violated the provisions of this Act (excluding the provisions of Article 23, paragraph (3), Article 23-2, and Article 30, paragraph (1) as applied pursuant to paragraph (2) of the same Article following replacement of terms) or other Acts relating to labor (including the provisions of orders based on these provisions), the Minister of Health, Labor and Welfare may, when finding it necessary for securing proper work under a dispatching arrangement, order the operator to improve the method of employment management for dispatched workers and otherwise to take necessary measures to improve the operation of the worker dispatching business.

(2) Where a client violates the provisions of paragraph (3) of Article 4, the Minister of Health, Labor and Welfare, when the Minister finds it materially inappropriate to permit the work under a dispatching arrangement in violation of the provisions of the same paragraph to continue, may order the dispatching business operator that dispatches workers to the client concerned to suspend the worker dispatch which has been carried out under the worker dispatch contract for the work under a dispatching arrangement concerned.

(Publication)

Article 49-2 (1) If a person receiving worker dispatching business is in violation of the provisions of Article 4, paragraph (3), Article 24-2, Article 26, paragraph (7) or (10), Article 40, paragraph (2) or (3), Article 40-2, paragraphs (1), (4), or (5), Article 40-3, or Article 40-6, paragraph (1), or, despite having already received guidance or advice under the provisions of Article 48, paragraph (1) for the person's violation of the above-mentioned provisions, is found likely to be still in violation of the provisions concerned, the Minister of Health, Labor and Welfare may recommend that person receiving worker dispatching business to take measures necessary for correcting the work under a dispatching arrangement violating the provisions of Article 4, paragraph (3), Article 24-2, Article 40-2, paragraph (1), (4), or (5), Article 40-3, or Article 40-6, paragraph (1) or measures necessary for preventing such work under a dispatching arrangement from being carried out.

(2) Where the Minister of Health, Labor and Welfare has given recommendations under the provisions of the preceding paragraph, the Minister, if the person

receiving such recommendations has not complied with them, may make it public to that effect.

(Notification to the Minister of Health, Labor and Welfare)

Article 49-3 (1) If a person in control of the business of carrying out worker dispatch or a person receiving worker dispatching services violates this Act or the provisions of an order based on this Act, a dispatched worker may notify the Minister of Health, Labor and Welfare of such fact.

(2) Neither a business operator carrying out worker dispatch nor a person receiving worker dispatching business must dismiss or otherwise treat disadvantageously a dispatched worker on the ground of the worker's having made the notification referred to in the preceding paragraph.

(Reporting)

Article 50 The Minister of Health, Labor and Welfare may, within the limits necessary for the enforcement of this Act, order persons in control of the business of carrying out worker dispatching business and persons receiving worker dispatching business therefrom to report on necessary particulars, pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare.

(On-site Inspections)

Article 51 (1) The Minister of Health, Labor and Welfare may, within the limits necessary for the enforcement of this Act, have the Ministry's personnel enter the place of business or other facilities of a person in control of the business of carrying out a worker dispatching business or a person receiving worker dispatch business therefrom, question relevant persons, and inspect books, documents, and other items.

(2) A personnel who conducts on-site inspection pursuant to the provisions of the preceding paragraph must carry an identification card and present it to the relevant persons concerned.

(3) The authority to conduct on-site inspections under the provisions of paragraph (1) must not be construed as the authority to conduct criminal investigations.

(Counseling and Assistance)

Article 52 A public employment security office may, with regard to particulars relating to work under a dispatching arrangement, respond to a request from a worker, etc. for counsel and give assistance such as offering necessary advice.

(Supporters of the Proper Operation of Worker Dispatching Business)

- Article 53 (1) The Minister of Health, Labor and Welfare may commission persons, from among those that enjoy public confidence and have expert knowledge and experience concerning the operation of a worker dispatching business and those concerning work under a dispatching arrangement, to act as supporters of the proper operation of a worker dispatching business.
- (2) A supporter of the proper operation of a worker dispatching business, through cooperation in administrative measures concerning the securing of the proper operation of worker dispatching business and proper work under a dispatching arrangement, may respond to a request for counsel from, and give expert advice to, persons in control of the business of carrying out worker dispatch, persons receiving worker dispatching services, and workers, etc.
- (3) A supporter of the proper operation of a worker dispatching business must not disclose any secrets learned in the course of duties to any other party without legitimate grounds. The same applies even after the supporter has ceased to be a supporter of the proper operation of a worker dispatching business.
- (4) A supporter of the proper operation of a worker dispatching business is not to receive any remuneration from the State for performing duties as a supporter.
- (5) A supporter of the proper operation of a worker dispatching business may receive payment of the expenses required for the performance of the supporter's duties within the limits of budget.

(Fees)

Article 54 The following persons must pay the fees specified by Cabinet Order by taking into consideration the actual cost involved:

- (i) a person that wishes to obtain the license referred to in Article 5, paragraph (1);
- (ii) a person that wishes to obtain a reissuance of a license certificate under the provisions of Article 8, paragraph (3);
- (iii) a person that wishes to renew the validity period of a license under the provisions of Article 10, paragraph (2); and
- (iv) a person that wishes to have the person's license certificate updated under the provisions of Article 11, paragraph (4).

(Delegation of Transitional Measures to Orders)

Article 55 When Cabinet Order or Order of the Ministry of Health, Labor and Welfare is established, amended, or repealed under the provisions of this Act, necessary transitional measures (including transitional measures on penal provisions) may be specified by Cabinet Order or Order of the Ministry of Health, Labor and Welfare, respectively, within limits considered reasonably necessary in connection with the establishment, amendment, or repeal concerned.

(Delegation of Authority)

Article 56 (1) Part of the authority of the Minister of Health, Labor and Welfare prescribed in this Act may be delegated to prefectural labor directors, pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare.

(2) The authority delegated to prefectural labor directors pursuant to the provisions of the preceding paragraph may be delegated to the chiefs of public employment security offices, pursuant to the provisions of Order of the Ministry of Health, Labor and Welfare.

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

Article 57 Beyond what is prescribed by this Act, procedures and other particulars necessary for the implementation of this Act is prescribed by Order of the Ministry of Health, Labor and Welfare.

Chapter VI Penal Provisions

Article 58 Any person that has carried out worker dispatch with the intention of inducing the workers to engage in work injurious to public health or public morals is punished by imprisonment for not less than one year and not more than ten years or a fine of not less than 200,000 yen and not more than 3,000,000 yen.

Article 59 Any person that falls under any of the following items is punished by imprisonment for not more than one year or a fine of not more than 1,000,000 yen:

- (i) a person that has violated the provisions of Article 4, paragraph (1) or Article 15;
- (ii) a person that has engaged in a worker dispatching business without obtaining the license referred to in Article 5, paragraph (1);
- (iii) a person that has obtained the license referred to in Article 5, paragraph (1) or renewed the validity period of a license under the provisions of Article 10 paragraph (2), by deception or other wrongful act; or
- (iv) a person that has violated a disposition under the provisions of Article 14, paragraph (2).

Article 60 Any person that falls under either of the following items is punished by imprisonment for not more than six months or a fine of not more than 300,000 yen:

- (i) a person that has violated a disposition under the provisions of Article 49; or
- (ii) a person that has violated the provisions of Article 49-3, paragraph (2).

Article 61 Any person that falls under any of the following items is punished by a fine of not more than 300,000 yen:

- (i) a person that has submitted a written application prescribed in Article 5, paragraph (2) (including as applied mutatis mutandis pursuant to Article 10, paragraph (5)) and containing a false statement, or documents prescribed in Article 5, paragraph (3) (including as applied mutatis mutandis pursuant to Article 10, paragraph (5)) and containing a false statement;
- (ii) a person that has failed to submit a notification or has submitted a false notification under the provisions of Article 11, paragraph (1), Article 13, paragraph (1), or Article 23, paragraph (4), or that has entered a false statement and submitted documents prescribed in Article 11, paragraph (1);
- (iii) a person that has violated the provisions of Article 34, 35-2, 35-3, 36, 37, 41, or 42;
- (iv) a person that has failed to submit a notification or submitted a false notification under the provisions of Article 35;
- (v) a person that has failed to submit a report or has submitted a false report under the provisions of Article 50; or
- (vi) a person that has refused, obstructed, or evaded an entry or inspection under the provisions of Article 51, paragraph (1), or that has failed to reply to questions or has given false statements thereto.

Article 62 If a representative of a corporation, or an agent, employee, or other worker of a corporation or individual, has committed a violation under Articles 58 through the immediately preceding Article in connection with the business of the corporation or individual, in addition to the offender being subject to punishment, the corporation or individual is subject to the fines prescribed in the same Articles.

**Supplementary Provisions [Act No. 73 of September 18, 2015 Extract]
[Extract]**

(Effective Date)

Article 1 This Act comes into effect as of September 30, 2015; provided, however, that the provisions of Article 11 of the Supplementary Provisions come into effect as from the date of promulgation.

(Review)

Article 2 (1) Approximately three years after the enforcement of this Act, the government is to review the provisions of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers

amended by this Act (hereinafter referred to as the "New Act") by considering the enforcement status of the New Act and, if considered necessary, take necessary measures based on the results of the review.

- (2) Notwithstanding the provisions of the preceding paragraph, if the government considers, according to the trends in the numbers of regular workers and dispatched workers and other situations in the labor market, that the enforcement of this Act is likely to damage an employment practice that is considered to contribute to the effective demonstration of workers' abilities and their employment security throughout their working lives, the government is to promptly review the provisions of the New Act.
- (3) The government is to take such necessary measures as research and study in order to study how to secure equal and balanced treatment between dispatched workers and workers employed by clients and engaged in the same type of work as the work in which dispatched workers are engaged.

(Transitional Measures for License for General Worker Dispatching Business)

Article 3 (1) A person that, as of the enforcement of this Act, has obtained the license referred to in Article 5, paragraph (1) of the Act on Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers prior to amendment by this Act (hereinafter referred to as the "Former Act") is deemed to have obtained the license referred to in Article 5, paragraph (1) of the New Act on the date on which this Act came into effect (hereinafter referred to as the "effective date"). In this case, the validity period of the license referred to in the same paragraph and associated with the person that is deemed to have obtained the license is the remainder of the validity period of that person's license under the provisions of Article 10 of the Former Act as of the effective date.

- (2) A license application that has been filed pursuant to the provisions of Article 5, paragraph (2) of the Former Act as of the enforcement of this Act is deemed to be a license application filed pursuant to the provisions of Article 5, paragraph (2) of the New Act.
- (3) A license certificate granted pursuant to the provisions of Article 8, paragraph (1) of the Former Act as of the enforcement of this Act is deemed to be a license certificate granted pursuant to the provisions of Article 8, paragraph (1) of the New Act.

(Transitional Measures for Causes for Disqualification)

Article 4 The provisions of Article 6, items (iv) through (vii) of the New Act apply to persons whose licenses are rescinded under the provisions of item (iv) of the same Article on or after the effective date (if these persons are corporations, those persons who were officers of the corporations as referred to in item (v) of

the same Article) or persons that submitted notifications under the provisions of item (vi) of the same Article on or after the effective date (if these persons are corporations, those persons who were officers of the corporations as referred to in item (vii) of the same Article). Prior laws continue to govern the dispositions of license rescission and order issuance and the causes for disqualification pertaining to notification with regard to persons that had their licenses rescinded under the provisions of Article 6, item (iv) of the Former Act, or received orders, prior to the effective date (if these persons were corporations, those persons who were officers of the corporations as referred to in item (v) of the same Article) or persons that submitted notifications under the provisions of item (vi) of the same Article prior to the effective date (if these persons were corporations, those persons who were officers of the corporations as referred to in item (vii) of the same Article).

(Transitional Measures for Rescission of Licenses for General Worker Dispatching Business)

Article 5 Prior laws continue to govern the causes, arising prior to the effective date, of license rescission under the provisions of Article 14, paragraph (1) of the New Act and of an order to suspend the whole or part of the operations of a worker dispatching business under the provisions of paragraph (2) of the same Article, with regard to persons that are deemed to have obtained the license referred to in Article 5, paragraph (1) of the New Act pursuant to the provisions of Article 3, paragraph (1) of the Supplementary Provisions.

(Transitional Measures for Specified Worker Dispatching Business)

Article 6 (1) A person that, as of the enforcement of this Act, has started to carry out a specified worker dispatching business (referring to the specified worker dispatching business defined in Article 2, item (v) of the Former Act) after submitting a notification pursuant to the provisions of Article 16, paragraph (1) of the Former Act may, notwithstanding the provisions of Article 5, paragraph (1) of the New Act, continuously carry out a worker dispatching business in which dispatched workers (limited to those who become the subjects of worker dispatch carried out in the course of trade) consist solely of regularly employed workers, during a period of three years counting from the effective date (if the person receives an order for discontinuance of the worker dispatching business pursuant to the provisions of paragraph (4) or submits a notification of discontinuance of the worker dispatching business pursuant to the provisions of Article 13, paragraph (1) of the New Act within the period, until the day of the order or notification). If the period elapses after the person has applied for the license referred to in Article 5, paragraph (1) of the New Act within the period, the same applies until the decision on whether to grant

the license under application is made.

- (2) The provisions of Article 5, Articles 7 through 10, the second sentence of paragraph (1) and paragraphs (2) through (4) of Article 11, Article 13, paragraph (2), Article 14, and Article 54 of the New Act do not apply to worker dispatching business under the provisions of the preceding paragraph. With regard to the application of the other provisions of the New Act, a person carrying out such worker dispatching business is deemed to be a dispatching business operator as defined in Article 2, item (iv) of the New Act. In this case, the term "set forth in each item of Article 5, paragraph (2)" in Article 11, paragraph (1) of the New Act is deemed to be replaced with "to be stated in the written notice referred to in Article 16, paragraph (1) of the Act for Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers prior to amendment (hereinafter referred to as the "Act prior to the 2015 Amendment") by the provisions of Article 1 of the Act Partially Amending the Act for Securing the Proper Operation of Worker Dispatching Business and Protecting Dispatched Workers (Act No. 73 of 2015)," the term "has obtained the license referred to in Article 5, paragraph (1)" in Article 26, paragraph (3) of the New Act is deemed to be replaced with "has submitted a written notice pursuant to the provisions of Article 16, paragraph (1) of the Act prior to the 2015 Amendment," and the necessary replacement of other terms is prescribed by Cabinet Order.
- (3) A person carrying out a worker dispatching business under the provisions of paragraph (1) must keep documents stating the fact that that person submitted the written notice referred to in Article 16, paragraph (1) of the Former Act and other particulars specified by Order of the Ministry of Health, Labor and Welfare at each place of business at which the worker dispatching business is carried out, and must present such documents to relevant persons upon request.
- (4) If a person carrying out a worker dispatching business under the provisions of paragraph (1) falls under any of the items (excluding items (iv) through (vii)) of Article 6 of the New Act, or is still in violation of the provisions of Article 23, paragraph (3) or Article 23-2 of the New Act even after receiving instructions under Article 48, paragraph (3) of the Former Act before the effective date or receiving instructions under the provisions of Article 48, paragraph (3) of the New Act on or after the effective date, the Minister of Health, Labor and Welfare may order the person to discontinue the operations of the worker dispatching business. In the case where such a person falls under any of items (iv) through (vii) of Article 6 of the Former Act at the commencement of the worker dispatching business (if the person has established two or more places of business to carry out the worker dispatching business, the worker dispatching business carried out at each of those places of business; hereinafter

the same applies in this paragraph), the Minister of Health, Labor and Welfare may order the person to discontinue the operations of the worker dispatching business.

- (5) If a person carrying out a worker dispatching business under the provisions of paragraph (1) violates any of the provisions of the Former Act (excluding the provisions of Chapter III, Section 4 thereof) or any order or disposition based on those provisions before the effective date, violates any of the provisions of the New Act (excluding the provisions of Chapter III, Section 4 thereof) or any order or disposition based on those provisions on or after the effective date, or violates any of the provisions of the Employment Security Act (Act No. 141 of 1947) or any order or disposition based on those provisions, the Minister of Health, Labor and Welfare may order the person to discontinue the whole or part of the operations of the worker dispatching business for a designated period of time.
- (6) Any person that violates a disposition under the preceding two paragraphs is punished by imprisonment for not more than one year or a fine of not more than 1,000,000 yen.
- (7) If a representative of a corporation, or an agent, employee, or other worker of a corporation or individual, commits a violation referred to in the preceding paragraph in connection with the business of the corporation or individual, in addition to the offender being subject to punishment, the corporation or individual is subject to the fine referred to in the same paragraph.

(Transitional Measures for the Period of Worker Dispatch)

Article 7 The provisions of Article 35-3 of the New Act apply to worker dispatch carried out under a worker dispatch contract concluded on or after the effective date.

(Transitional Measures for Management Record of Dispatching Business and Management Record of a Client)

Article 8 (1) The provisions of Article 37, paragraph (1), item (viii) of the New Act apply to measures taken pursuant to the provisions of Article 30, paragraph (1) of the New Act (including as applied pursuant to the provisions of paragraph (2) of the same Article following the replacement of terms) on or after the effective date.

(2) The provisions of Article 37, paragraph (1), item (ix) and Article 42, paragraph (1), item (ix) of the New Act apply to educational training provided on or after the effective date.

(Transitional Measures for the Period of Receiving a Worker Dispatching Services)

Article 9 (1) The provisions of Article 40-2 of the New Act apply to worker dispatching carried out under a worker dispatch contract concluded on or after the effective date. Prior laws continue to govern worker dispatch carried out under a worker dispatch contract concluded before the effective date.

(2) The provisions of Article 40-3 of the New Act apply to worker dispatch carried out under a worker dispatch contract concluded on or after the effective date.

(Transitional Measures for Penal Provisions)

Article 10 Prior laws continue to govern the application of penal provisions to acts committed before the effective date, and also acts committed on or after the effective date in the case where those acts are designated as continuously subject to prior laws pursuant to the provisions of Article 5 and paragraph (1) of the preceding Article of the Supplementary Provisions.

(Delegation to Cabinet Order)

Article 11 Beyond what is provided for in these Supplementary Provisions, Cabinet Order prescribes transitional measures necessary for the enforcement of this Act.

**Supplementary Provisions [Act No. 17 of March 31, 2016 Extract]
[Extract]**

(Effective Date)

Article 1 This Act comes into effect as of January 1, 2017; provided, however, that the provisions set forth in the following items come into effect as from the dates prescribed in the respective items:

(i) the provisions of Article 7 and the provisions of Articles 13, 32, and 33 of the Supplementary Provisions: the date of promulgation

(Transitional Measures for Penal Provisions)

Article 13 Prior laws continue to govern the application of penal provisions to acts committed prior to the enforcement of the provisions set forth in Article 1, item (i) of the Supplementary Provisions.

(Review)

Article 14 After five years have elapsed since the enforcement of this Act, the government is to review the enforcement status of the provisions of this Act amended by the provisions of Articles 5, 6, and 8 and, if considered necessary, take necessary measures based on the results of the review.

(Delegation of Other Transitional Measures to Cabinet Order)

Article 33 Beyond what is provided for in these Supplementary Provisions,
Cabinet Order prescribes transitional measures necessary for the enforcement
of this Act.