

This translation of Korea's labor laws is intended mainly as a convenience to the non-Korean-reading public. If any questions arise related to the accuracy of the information contained in the translation, please refer to the official Korean version of the laws. Any discrepancies or differences created in the translation are not binding and have no legal effect for compliance or enforcement purposes.

** This Act reflects only the amendments made until October 31, 2011*

MINIMUM WAGE ACT

Act No. 3927, Dec. 31, 1986

Amended by Act No. 4575, Aug. 5, 1993
Act No. 5474, Dec. 24, 1997
Act No. 5888, Feb. 8, 1999
Act No. 6278, Oct. 23, 2000
Act No. 7563, May 31, 2005
Act No. 7827, Dec. 30, 2005
Act No. 8372, Apr. 11, 2007
Act No. 8818, Dec. 27, 2007
Act No. 8964, Mar. 21, 2008
Act No. 10339, Jun. 4, 2010

CHAPTER I

General Provisions

Article 1 (Purpose)

The purpose of this Act is to stabilize workers' life and improve the quality of the labor force by guaranteeing them a minimum level of wages, thereby contributing to the sound development of the national economy.

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 2 (Definition)

The terms "worker", "employer" and "wage" in this Act mean a worker, an employer and wages as prescribed in Article 2 of the Labor Standards Act.

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 3 (Scope of Application)

(1) This Act shall apply to all businesses or workplaces (hereafter referred to as "business") employing workers : Provided that this Act shall not apply to businesses which employ only relatives living together with the employer, and to persons employed for household work.

(2) This Act shall not apply to seamen who are subject to the Seaman Act or to ship owners employing such seamen.

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

CHAPTER II

Minimum Wage

Article 4 (Criteria for Determination and Classification of Minimum Wage)

(1) The minimum wage shall be set after taking into account the cost of living of workers, the wages of kindred workers, labor productivity and the ratio of workers' compensation to national income, etc. In this case, the amount may be set differently by type of business.

(2) The classification by type of business under paragraph (1) shall be determined by the Minister of Employment and Labor after deliberation at the Minimum Wage Council under Article 12. *<Amended by Act No. 10339, Jun. 4, 2010>*

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 5 (Minimum Wage Rate)

(1) The minimum wage rate (referring to the amount determined as the minimum wage; hereinafter the same shall apply) shall be determined on an hourly, weekly, daily or monthly basis. In this case, where the minimum wage rate is determined on a daily, weekly, or monthly basis, the amount shall also be expressed as an hourly rate.

(2) For workers who fall under any of the following subparagraphs, the minimum wage rate may be set differently from the minimum wage rate prescribed in paragraph (1) under the conditions as prescribed by the Presidential Decree :

1. A person who is in a apprentice period and for whom less than three months have passed since the beginning of his/her apprentice period;
2. A person who is engaged in surveillance or intermittent work and for whom the employer has obtained approval from the Minister of Employment and Labor under subparagraph 3 of Article 63 of the Labor Standards Act.

<Amended by Act No. 10339, Jun. 4, 2010>

(3) If wages are usually fixed under a contract or in other similar ways, and it is deemed inappropriate to determine the minimum wage rate in the manner prescribed in paragraph (1), the minimum wage rate may be determined separately, as prescribed by the Presidential Decree.

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 5-2 (Calculation of Wages for Application of Minimum Wage)

If the unit period of the wages of a worker subject to the minimum wage is different from that of the minimum wage as prescribed in Article 5 (1) of this Act, the method of calculating the worker's wages based on the unit period of the minimum wage shall be prescribed by the Presidential Decree.

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 6 (Effect of Minimum Wage)

(1) An employer shall pay the workers who are covered by the minimum wage wages not less than the minimum wage rate.

(2) No employer shall lower the previous wage level on the ground of the minimum wage set under this Act.

(3) If a labor contract between an employer and a worker who is covered by the minimum wage, provides for a wage that is less than the minimum wage rate, such provision shall be null and void and the invalidated provision shall be regarded as stipulating that the same wage as the minimum wage rate set under this Act shall be paid.

(4) Wages that fall under any of the following subparagraphs shall be excluded from the wages referred to in paragraphs (1) and (3):

1. Wages, other than those paid regularly once or more every month, and which are determined by the Minister of Employment and Labor; *<Amended by Act No 10339, Jun. 4, 2010>*
2. Wages, other than those paid for contractual working hours (hereinafter referred to as "contractual working hours") or contractual working days under Article 2 (1) 7 of the Labor Standards Act, and which are determined by the Minister of Employment and Labor; *<Amended by Act No 10339, Jun. 4, 2010>*
3. Other wages as deemed inappropriate to be included in calculating the minimum wage and determined separately by the Minister of Employment and Labor. *<Amended by Act No 10339, Jun. 4, 2010>*

(5) Notwithstanding the provision of paragraph (4), the scope of wages included in calculating the minimum wage for workers engaged in operating a motor vehicle in a general taxi business under Article 3 of the Passenger Transport Service Act and subparagraph 2 of Article 3 of the Enforcement Decree of the same Act shall be that of wages prescribed by the Presidential Decree, excluding wages calculated based on the

output.

(6) The provisions of paragraphs (1) and (3) shall not oblige an employer to pay wages for the hours or days during which a worker has not worked for reasons falling under any of the following subparagraphs:

1. Where a worker has not worked the contractual working hours or days for personal reasons;
2. Where an employer has not let a worker work the contractual working hours or days for a justifiable reason.

(7) In the event that a project is carried out under a contract, if the contractee pays his/her workers wages lower than the minimum wage rate for reasons for which the contractor is liable, the contractor, along with the contractee, shall take joint liability.

(8) The scope of reasons a contractor is liable for pursuant to paragraph (7) shall be as follows :

1. A contractor's act of setting the unit labor cost lower than the minimum wage rate at the time of signing the contract;
2. A contractor's act of lowering the unit labor cost below the minimum wage rate during the term of the contract.

(9) If a project is carried out through two or more tiers of contracts, "contractee" in paragraphs (7) shall be read as "subcontractor" and "contractor" in paragraphs (7) and (8) as "immediate upper-tier contractor", respectively.

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 7 (Exclusion from Application of Minimum Wage)

The provision of Article 6 shall not apply to those who fall under the scope of any of the following subparagraphs and for whom the employer obtains permission from the Minister of Employment and Labor under the conditions as prescribed by the Presidential Decree: *<Amended by Act No. 10339, Jun. 4, 2010>*

1. A person who has remarkably low abilities to work due to a mental or physical handicap;
2. Other people to whom it is deemed inappropriate to apply the minimum wage.

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

CHAPTER III

Determination of Minimum Wage

Article 8 (Determination of Minimum Wage)

(1) The Minister of Employment and Labor shall determine the minimum wage by August 5 of every year. In this case, the Minister of Employment and Labor shall request for deliberation by the Minimum Wage Council (hereinafter referred to as "the Council") under Article 12 under the conditions as prescribed by the Presidential Decree, and determine the minimum wage in accordance with the minimum wage proposal, deliberated and decided by the Council. *<Amended by Act No 10339, Jun. 4, 2010>*

(2) The Council shall, upon receiving a request for deliberation on the minimum wage from the Minister of Employment and Labor pursuant to the latter part of paragraph (1), make such deliberation and decide and submit a minimum wage proposal to the Minister of Employment and Labor within 90 days after the date on which the request for deliberation was received.

<Amended by Act No 10339, Jun. 4, 2010>

(3) If the Minister of Employment and Labor deems it difficult to determine the minimum wage according to the minimum wage proposal submitted by the Council after deliberation under paragraph (2), the Minister of Employment and Labor may request, within 20 days, the Council to deliberate on the proposal again for a period of not less than 10 days, indicating reasons for such request. *<Amended by Act No 10339, Jun. 4, 2010>*

(4) The Council shall, upon receiving a request for redeliberation under paragraph (3), redeliberate on the proposal and submit the results to the Minister of Employment and Labor within the prescribed period. *<Amended by Act No 10339, Jun. 4, 2010>*

(5) If the Council, after a redeliberation under paragraph (4), passes again the initial minimum wage proposal referred to in paragraph (2) with the attendance of a majority of all members and with the approval of two-thirds of the members present, the Minister of Employment and Labor shall decide the minimum wage according to the proposal. *<Amended by Act No 10339, Jun. 4, 2010>*

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 9 (Objection to Minimum Wage Proposal)

(1) The Minister of Employment and Labor shall, upon receiving a minimum wage proposal from the Council pursuant to Article 8 (2), announce the minimum wage proposal, as prescribed by the Presidential Decree.

<Amended by Act No 10339, Jun. 4, 2010>

(2) If a representative of workers or employers has an objection to the minimum wage proposal announced under paragraph (1), he/she may raise an objection with the Minister of Employment and Labor within 10 days of the announcement, as prescribed by the Presidential Decree. In this case, the scope of workers' or employers' representative shall be prescribed by the Presidential Decree. *<Amended by Act No. 10339, Jun. 4, 2010>*

(3) If the Minister of Employment and Labor deems an objection filed under paragraph (2) to be reasonable, he/she shall request the Council to redeliberate on the minimum wage proposal under Article 8 (3), with the contents of the objection specified. *<Amended by Act No. 10339, Jun. 4, 2010>*

(4) With respect to the minimum wage proposal a redeliberation on which is requested under paragraph (3), the Minister of Employment and Labor shall not determine the minimum wage until the Council submits the minimum wage proposal decided after redeliberation pursuant to Article 8 (4). *<Amended by Act No. 10339, Jun. 4, 2010>*

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 10 (Public Announcement and Entering into Force of Minimum Wage)

(1) If the Minister of Employment and Labor has determined the minimum wage, he/she shall announce publicly its contents without delay. *<Amended by Act No. 10339, Jun. 4, 2010>*

(2) The minimum wage announced publicly under paragraph (1) shall come into force on January 1 of the following year: Provided that the Minister of Employment and Labor may, if deemed necessary, in consideration of wage bargaining periods, etc., set different effective dates by type of business.

<Amended by Act No. 10339, Jun. 4, 2010>

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 11 (Obligation of Notice)

Any employer to whom the minimum wage applies shall inform the workers of relevant the minimum wage by displaying it where it can be easily seen by the workers, or by other appropriate means, as prescribed by the Presidential Decree.

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

CHAPTER IV

Minimum Wage Council

Article 12 (Establishment of Minimum Wage Council)

The Minimum Wage Council (hereinafter referred to as "Council") shall be established in the Ministry of Employment and Labor to deliberate on the minimum wage and other important matters related thereto. *<Amended by Act No. 10339, Jun. 4, 2010>*

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 13 (Functions of Council)

The Council shall perform the following functions:

1. Deliberation or redeliberation on the minimum wage;
2. Deliberation on classification by type of business to which the minimum wage is applicable;
3. Research and making suggestions for the development of the minimum wage system; and
4. Deliberation on other important matters related to the minimum wage, placed on the agenda by the Minister of Employment and Labor. *<Amended by Act No. 10339, Jun. 4, 2010>*

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 14 (Composition, etc., of Council)

(1) The Council shall be composed of members prescribed in the following subparagraphs :

1. Nine members representing workers (hereinafter referred to as "workers' members");
2. Nine members representing employers (hereinafter referred to as "employers' members");
3. Nine members representing the public interest (hereinafter referred to as "public interest members")

(2) The Council shall have two standing members who become public interest members.

(3) The term of office of a member shall be three years, and renewable.

(4) Where a vacancy occurs, the term of office of the member filling the vacancy shall be the remaining term of his/her predecessor.

(5) After expiry of the term of office, a member shall

continue to perform the duties until the successor is appointed or commissioned.

(6) Necessary matters concerning the qualifications, appointment, commission, etc, of members shall be prescribed by the Presidential Decree.

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 15 (Chairperson and Vice-Chairperson)

(1) The Council shall have a Chairperson and a Vice-Chairperson.

(2) The Chairperson and the Vice-Chairperson shall be elected by the Council from among the public interest members.

(3) The Chairperson shall manage the overall affairs of the Council and represent the Council.

(4) When the Chairperson is unable to perform his/her duties due to an inevitable reason, the Vice-Chairperson shall act on behalf of the Chairperson.

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 16 (Special Members)

(1) The Council may appoint three or less special members from among public officials of a relevant administrative agency.

(2) Special members may attend and speak at a meeting of the Council.

(3) Necessary matters concerning the qualifications, commission, etc. of special members shall be prescribed by the Presidential Decree.

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 17 (Meetings)

(1) In the following cases, the Chairperson shall convene a meeting of the Council :

1. Where the Minister of Employment and Labor request the convocation of a meeting; *<Amended by Act No. 10339, Jun. 4, 2010>*

2. Where one-third or more of all members requests the convocation of a meeting;

3. Where the Chairperson deems it necessary to convene a meeting

(2) The Chairperson shall preside over meetings of the Council.

(3) Except as otherwise provided for in this Act, the Council

shall make a decision in its meetings with the attendance of a majority of all members and with the approval of a majority of the members present.

(4) For valid decision-making of the Council under paragraph (3), the Council shall have the attendance of at least one third of workers' members and employers' members, respectively : Provided that this shall not apply if workers' members or employers' members fail to attend without justifiable reasons after requested twice or more times to attend the meeting.

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 18 (Hearing of Opinion)

The Council may hear the opinions of the workers, employers and other persons concerned, if deemed necessary to perform its duties.

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 19 (Technical Committee)

(1) The Council may, if deemed necessary, establish a technical committee by type of business or specific matter.

(2) The technical committee shall perform part of the functions of the Council prescribed in subparagraphs of Article 13, as delegated to it by the Council.

(3) The technical committee shall be composed of an equal number of workers' members, employers' members and public interest members, each number not exceeding five.

(4) The provisions of Articles 14 (3) through (6), 15, 17, and 18 concerning the operation, etc. of the Council shall apply mutatis mutandis to the technical committee. In this case, "Council" shall mean as "technical committee".

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 20 (Secretariat)

(1) The Council shall have a secretariat to deal with its affairs.

(2) The secretariat may have up to three researchers conduct a survey and research on technical matters necessary for deliberation, etc., on the minimum wage.

(3) Necessary matters concerning the qualifications, commission and allowances of research members, and the organization and operation of the secretariat, etc. shall be prescribed by the Presidential Decree.

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 21 (Allowances, etc., of Members)

A member of the Council or technical committee may be paid allowances and travel expenses as prescribed by the Presidential Decree.

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 22 (Operational Regulations)

The Council may establish regulations on the operation of the Council and technical committee to the extent not inconsistent with this Act.

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

CHAPTER V

Supplementary Provisions

Article 23 (Survey on Cost of Living, Wages, etc.)

The Minister of Employment and Labor shall survey each year the costs of living, wages, etc., of workers.

<Amended by Act No. 10339, Jun. 4, 2010>

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 24 (Support of Government)

The government shall make its best effort to provide workers and employers with information and other assistance necessary for the smooth implementation of the minimum wage system.

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 25 (Report)

The Minister of Employment and Labor may request workers or employers to report matters relating to wages within the extent necessary for the enforcement of this Act. *<Amended by Act No. 10339, Jun. 4, 2010>*

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 26 (Authority of Labor Inspector)

(1) The Minister of Employment and Labor shall charge the a labor inspector under Article 101 of the Labor Standards Act with the duty of administering the enforcement of this Act, as prescribed by the Presidential Decree.

<Amended by Act No. 10339, Jun. 4, 2010>

(2) In order to exercise the authority as referred to in paragraph (1), a labor inspector may enter a workplace, demand

the submission of books and documents, inspect other things, or ask questions to a relevant personnel.

(3) A labor inspector who enters and inspects under paragraph (2) shall carry a certificate indicating his/her identity, and show it to a relevant personnel.

(4) A labor inspector shall perform the duties of a judicial police officer in relation to any offence committed in violation of this Act, as prescribed by the Act on the Persons Performing the Duties of Judicial Police Officials and the Scope of Their Duties.

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 26-2 (Delegation of Authority)

Parts of the authority of the Minister of Employment and Labor under this Act may be delegated to the heads of local employment and labor offices as prescribed by the Presidential Decree. *<Amended by Act No. 10339, Jun. 4, 2010>*

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 27 Deleted *<Act No. 8964, Mar. 21, 2008>*

CHAPTER VI

Penal Provisions

Article 28 (Penal Provisions)

A person who pays wages lower than the minimum wage rate or lowers the previous wages on grounds of the minimum wage in violation of Article 6 (1) or (2) shall be punished by imprisonment of up to three years or a fine not exceeding 20 million won. In this case, both imprisonment and fine may be imposed simultaneously.

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 29 Deleted. *<Act No. 5888, Feb. 8, 1999>*

Article 30 (Joint Penal Provisions)

(1) If the representative, an agent, a servant or any other employee of a corporation commits the offence prescribed in Article 28 in connection with the business of the corporation, the corporation shall be punished by a fine pursuant to the same Article, in addition to the punishment of the offender.

(2) If an agent, a servant or any other employee of an individual commits the offence prescribed in Article 28 in

connection with the business of the individual, the individual shall be punished by a fine pursuant to the same Article, in addition to the punishment of the offender.

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Article 31 (Fine for Negligence)

(1) A person who falls under any of the following subparagraphs shall be punished by a fine not exceeding one million won.

1. Any person who, in violation of Article 11, fails to widely inform workers of the relevant minimum wage through the means prescribed in the same Article;
2. Any person who fails to make a report on matters concerning wages under Article 25 or makes a false report;
3. Any person who refuses, interferes with, or evades a request or inspection under Article 26 (2), or gives a false answer to questions asked.

(2) The fine for negligence prescribed in paragraph (1) shall be imposed and collected by the Minister of Employment and Labor, as prescribed by the Presidential Decree. *<Amended by Act No. 10339, Jun. 4, 2010>*

(3) A person who does not agree with the imposition of a fine for negligence under paragraph (2) may raise an objection to the Minister of Employment and Labor within 30 days from the date on which the imposition was notified. *<Amended by Act No. 10339, Jun. 4, 2010>*

(4) If a person subject to the imposition of a fine for negligence pursuant to paragraph (2) raises an objection pursuant to paragraph (3), the Minister of Employment and Labor shall notify, without delay, the competent court of this, and the court so notified shall hold a trial on the fine for negligence, pursuant to the Non-Contentious Case Litigation Procedure Act. *<Amended by Act No. 10339, Jun. 4, 2010>*

(5) If neither objection is raised pursuant to paragraph (3) nor is the fine for negligence paid, the fine for negligence shall be collected pursuant to the process of recovery of national taxes in arrears.

<This Article Wholly Amended by Act No. 8964, Mar. 21, 2008>

Addenda *<Act No. 8818, Dec. 27, 2007>*

Article 1 (Enforcement Date)

The enforcement date of this Act shall be as follows:

1. Special Metropolitan Cities and Metropolitan Cities under Article 2 (1) 1 of the Local Autonomy Act : July 1, 2009

2. Jeju Special Self-governing Province and Sis under Article 2 (1) 2 of the Local Autonomy Act : July 1, 2010
3. Regions other than those described in subparagraphs 1 and 2 : July 1, 2012.

Addenda <Act No. 8964, Mar. 21, 2008>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation : Provided that the revised provision of Article 6 (5) shall enter into force on the following dates:

1. Special Metropolitan Cities and Metropolitan Cities under Article 2 (1) 1 of the Local Autonomy Act : July 1, 2009
2. Jeju Special Self-governing Province and Sis under Article 2 (1) 2 of the Local Autonomy Act : July 1, 2010
3. Regions other than those described in subparagraphs 1 and 2 : July 1, 2012

Article 2 (Revision of Other Acts)

Parts of the Act on the Protection, etc. of Dispatched Workers shall be revised as follows :

"Article 6 of the Minimum Wage Act" in subparagraph 3 of Article 8 shall be changed to "Article 6 of the Minimum Wage Act".

Addenda <Act No. 10339, Jun. 4, 2010>

Article 1 (Enforcement Date)

This Act shall enter into force one month after its promulgation. <Proviso omitted>

Articles 2 through 3 Omitted.

Article 4 (Revision of Other Acts)

(1) through (74) Omitted.

(75) Parts of the Minimum Wage Act shall be revised as follows:

"Minister of Labor" in Article 4 (2), Article 5 (2) 2, Article 6 (4) 1 through 3, parts other than each subparagraph of Article 7, the former and latter parts of Article 8 (1), Article 8 (2) through (5), Article 9 (1), the former part of Article 9 (2), Article 9 (3) and (4), Article 10 (1), the proviso to Article 10 (2), subparagraph 4 of Article 13, Article 17 (1) 1, Article 23, Article 25, Article 26 (1), Article 26-2 and Article 31 (2) through (4) shall be changed to "Minister of Employment and Labor".

"Ministry of Labor" in Article 12 shall be changed to "Ministry of Employment and Labor".

"Local labor offices" in Article 26-2 shall be changed to "local employment and labor offices".

(76) through (82) Omitted.

Article 5 Omitted.