

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 Decree reflects only the amendments made until October 31, 2011*

ENFORCEMENT DECREE OF THE MINIMUM WAGE ACT

Presidential Decree No. 12207, Jul. 1, 1987

Amended by Presidential Decree No. 12488, Jul. 7, 1988
Presidential Decree No. 12746, Jul. 4, 1989
Presidential Decree No. 14035, Dec. 29, 1993
Presidential Decree No. 16190, Mar. 17, 1999
Presidential Decree No. 18312, Mar. 17, 2004
Presidential Decree No. 18911, Jun. 30, 2005
Presidential Decree No. 19029, Aug. 31, 2005
Presidential Decree No. 19513, Jun. 12, 2006
Presidential Decree No. 19771, Dec. 21, 2006
Presidential Decree No. 21572, Jun. 26, 2009
Presidential Decree No. 22269, Jul. 12, 2010
Presidential Decree No. 22805, Mar. 30, 2011

Article 1 (Purpose)

The purpose of this Decree is to prescribe the matters delegated by the Minimum Wage Act and matters necessary for the enforcement thereof.

<This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009>

Article 2 Deleted. *<Presidential Decree No. 19029, Aug. 31, 2005>*

Article 3 (Minimum Wage Rate for Probationary Workers)

(1) For a person employed on probation and for whom less than three months have passed since the beginning of the probationary period pursuant to Article 5 (2) 1 of the Minimum Wage Act (hereinafter referred to as the "Act"), the hourly minimum wage rate shall be set at an amount equal to the hourly minimum wage rate prescribed in the latter part of Article 5 (1) of the Act, subtracted by 10/100 of that rate.

(2) For a person engaged in surveillance or intermittent work and for whom the employer has obtained approval from the Minister of Employment and Labor pursuant to Article 5 (2) 2, the hourly minimum wage rate shall be set at an amount equal to the hourly minimum wage rate prescribed in the latter part of Article 5 (1), subtracted by 20/100 of that rate. *<Amended by Presidential Decree No. 22269, Jul. 12, 2010>*

<This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009>

Article 4 (Special Cases Concerning Determination of Minimum Wage on Contract Basis, etc.)

If it is difficult to calculate the number of hours worked because wages are usually determined on a contract basis or in other similar ways as prescribed in Article 5 (3) of the Act, or it is considered inappropriate to determine the minimum wage rate pursuant to Article 5 (1) of the Act, the minimum wage rate shall be determined based on the output or performance of the worker concerned.

<This Article Wholly Amended by Presidential Decree No.21572, Jun. 26, 2009>

Article 5 (Conversion of Wages for Application of Minimum Wage)

(1) If a unit period based on which a worker's wages are set is different from a unit period based on which the minimum wage applicable to the worker is set, the wages of the worker shall be converted into an hourly wage rate in accordance with the following classification:

1. Wages determined on a daily basis: the amount divided by the number of contractual working hours per day (if the number of contractual working hours varies each day, then the average number of contractual working hours per day during a week period);
2. Wages determined on a weekly basis: the amount divided by the number of contractual working hours per week (if the number of contractual working hours varies each week, then the average number of contractual working hours per week during a four-week period);
3. Wages determined on a monthly basis: the amount divided by the number of contractual working hours per month (if the number of contractual working hours varies each month, then the average number of contractual working hours per month during a year period);
4. Wages determined based on a certain period other than hour, day, week or month: the amount calculated *muntatis mutandis* pursuant to subparagraphs 1 through 3.

(2) With respect to wages determined under a output-based wage system or other contract systems, the hourly wage rate shall be calculated by dividing the total wages during a wage calculation period(referring to the period until the wage closing date, if there is such a date; hereinafter the same shall apply in this paragraph.) by the total number of working hours during that period.

(3) If wages received by a worker are composed of two or more kinds of wages prescribed in paragraph (1) or (2), the hourly wage rate for the worker concerned shall be the sum of each amount converted in accordance with its respective provision.

(4) If the number of contractual working hours during a unit period based on which wages of a worker are set is different from the number of contractual working hours during a period based on which the minimum wage applicable to the worker is set, the wages of the worker shall be converted into an hourly wage rate in accordance with the classification described in each subparagraph of paragraph (1).

<This Article Wholly Amended by Presidential Decree No.21572, Jun. 26, 2009>

Article 5-2 (Scope of Wages Included in Minimum Wage of Operators of Motor Vehicle in General Taxi Transport Business)

“Wages prescribed by the Presidential Decree” in Article 6 (5) of the Act refer to the wages paid once or more per month in accordance with the terms and rate of payment prescribed by a collective bargaining agreement, working rules or labor contract; Provided that wages falling under any of the following subparagraphs shall not be included:

1. Wages other than those paid for contractual working hours or contractual working days;
2. Wages paid to support the livelihoods and welfare of workers

<This Article Newly Inserted by Presidential Decree No.21572, Jun. 26, 2009>

Article 6 (Criteria for Permission for Exclusion from Application of Minimum Wage)

A person whom the employer can exclude from the application of the minimum wage with permission of the Minister of Employment and Labor under Article 7 of the Act means a person whose mental or physical handicap, it is deemed obvious, directly and considerably hinders the performance of his/her duties. *<Amended by Presidential Decree No. 22269, Jul. 12, 2010>*

<This Article Wholly Amended by Presidential Decree No.21572, Jun. 26, 2009>

Article 7 (Request for Deliberation of Minimum Wage Council)

Pursuant to Article 8 (1) of the Act, the Minister of Employment and Labor shall request the Minimum Wage

Council (hereinafter referred to as the "Council"), by March 31 every year, to deliberate on the minimum wage. *<Amended by Presidential Decree No. 22269, Jul. 12, 2010>*

<This Article Wholly Amended by Presidential Decree No.21572, Jun. 26, 2009>

Article 8 (Announcement of Minimum Wage Proposal)

The Minister of Employment and Labor shall, upon receiving a minimum wage proposal from the Council pursuant to Article 8 (2) of the Act, announce, without delay, the minimum wage proposal by type of business or workplace (hereinafter referred to as the "business") and the scope of business subject thereto pursuant to Article 9 (1) of the Act. *<Amended by Presidential Decree No. 22269, Jul. 12, 2010>*

<This Article Wholly Amended by Presidential Decree No.21572, Jun. 26, 2009>

Article 9 (Objections to Minimum Wage Proposal)

If a person intends to raise an objection to the minimum wage proposal as prescribed in the former part of Article 9 (2) of the Act, he/she shall submit to the Minister of Employment and Labor a letter of objection clearly indicating the following matters: *<Amended by Presidential Decree No. 22269, Jul. 12, 2010>*

1. Name, address, workplace and title of the person who files the objection;
2. Main points of the minimum wage proposal for the industry for which the objection is filed;
3. Reasons for and contents of the objection.

<This Article Wholly Amended by Presidential Decree No.21572, Jun. 26, 2009>

Article 10 (Scope of Representatives of Workers or Employers Eligible to Raise Objections)

A representative of workers prescribed in the latter part of Article 9 (2) of the Act refers to the representative of a confederation of trade unions or an industrial federation of trade unions, and a representative of employers refers to the representative of a nationwide association of employers designated by the Minister of Employment and Labor. *<Amended by Presidential Decree No. 22269, Jul. 12, 2010>*

<This Article Wholly Amended by Presidential Decree No.21572, Jun. 26, 2009>

Article 11 (Obligation to Notify)

(1) The contents of the minimum wage of which an employer shall notify workers in accordance with Article 11 of

the Act are as follows;

1. Minimum wage rate for the workers subject thereto;
2. Wages not included in the minimum wage pursuant to Article 6 (4) of the Act;
3. Scope of workers in the relevant business, who are excluded from the application of the minimum wage pursuant to Article 7 of the Act;
4. Effective date of the minimum wage.

(2) An employer shall inform workers of the contents of the minimum wage prescribed in paragraph (1) by one day prior to the effective date of the minimum wage under Article 10 (2) of the Act.

<This Article Wholly Amended by Presidential Decree No.21572, Jun. 26, 2009>

Article 12 (Commission, Appointment, etc. of Council Members)

(1) The workers' members, employers' members and public interest members under Article 14 (1) of the Act shall be commissioned by the President upon nomination of the Minister of Employment and Labor. *<Amended by Presidential Decree No. 22269, Jul. 12, 2010>*

(2) The standing members under Article 14 (2) of the Act shall be appointed by the President upon nomination of the Minister of Employment and Labor. *<Amended by Presidential Decree No. 22269, Jul. 12, 2010>*

(3) The workers' members shall be nominated from among those recommended by a confederation of trade unions, and the employers' members shall be nominated from among those recommended by a nationwide association of employers designated by the Minister of Employment and Labor. *<Amended by Presidential Decree No. 22269, Jul. 12, 2010>*

(4) When a vacancy occurs, a successor shall be commissioned or appointed within 30 days from the date of the occurrence of vacancy: Notwithstanding the foregoing, if the remaining term of the predecessor is less than one year, the a successor may not be commissioned or appointed.

<This Article Wholly Amended by Presidential Decree No.21572, Jun. 26, 2009>

Article 13 (Criteria for Commission of Public Interest Members)

The public interest members shall be commissioned from among those falling under any of the following subparagraphs: *<Amended by Presidential Decree No. 22269, Jul. 12, 2010>*

1. Persons who were public officials of Grade III or of a

- grade equivalent thereto or higher or public officials belonging to the Senior Civil Service and have plenty of knowledge and experience in labor issues;
2. Persons who work or worked as associate professor or in a higher position in the fields of labor economics, industrial relations, labor laws, sociology, social welfare and other fields related thereto in a university for five years or more;
 3. Persons who engage or engaged in research on labor issues in a certified research institute for ten years or more (five years in the case of doctorate degree holders in the fields prescribed in subparagraph 2);
 4. Other persons recognized by the Minister of Employment and Labor as having knowledge and experience equivalent to those prescribed in subparagraphs 1 through 3.

<This Article Wholly Amended by Presidential Decree No.21572, Jun. 26, 2009>

Article 14 (Appointment Qualifications, etc. of Standing Members)

The standing members of the Council shall be appointed from among those falling under any of the following subparagraphs:

1. Persons who are public officials of Grade III or of a grade equivalent thereto or higher or public officials belonging to the Senior Civil Service and have experience in labor administration;
2. Persons who worked as associate professor or in a higher position in the fields of labor economics, industrial relations, labor laws, sociology, social welfare and other fields related thereto in a university for five years or more.

<This Article Wholly Amended by Presidential Decree No.21572, Jun. 26, 2009>

Article 15 (Commission, etc. of Special Members)

The special members prescribed in Article 16 of the Act shall be commissioned by the Minister of Employment and Labor from among public officials of Grade III or of a grade equivalent thereto or higher in a relevant administrative agency or public officials belonging to the Senior Civil Service. *<Amended by Presidential Decree No 22269, Jul. 12, 2010>*

<This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009>

Article 16 (Reimbursement of Expenses)

Workers, employers and other related persons who attend a meeting of the Council (including a technical committee under Article 19 (4) of the Act) pursuant to Article 18 of the Act shall be paid allowances and travel expenses within the limits of the budget.

<This Article Wholly Amended by Presidential Decree No.21572, Jun. 26, 2009>

Article 17 (Composition of Technical Committee)

(1) The technical committee prescribed in Article 19 (1) of the Act shall be composed of those who are designated by the chairperson of the Council from among the Council members.

(2) If the chairperson deems it difficult to institute the technical committee referred to in paragraph (1) with only the members of the Council or deems it necessary for professional deliberation on the matters concerned, the chairperson may commission members of the technical committee from among those other than the Council members. In this case, among technical committee members commissioned separately, Article 12 (3) shall apply mutatis mutandis to the commission of workers' members and employers' members, and Article 13 shall apply mutatis mutandis to the commission of public interest members.

<This Article Wholly Amended by Presidential Decree No.21572, Jun. 26, 2009>

Article 18 (Allowances, etc. of Members)

Allowances and travel expenses necessary for the performance of duties shall be paid within the limits of the budget to members other than the standing members of the Council under Article 14 (1) of the Act and to the members of the technical committee under Article 19 (3) of the Act. In this case, the allowances shall be paid based on the number of days attended and the travel expenses shall be paid in amounts commensurate with the position of the standing members.

<This Article Wholly Amended by Presidential Decree No.21572, Jun. 26, 2009>

Article 19 (Survey of Actual Conditions)

The Minister of Employment and Labor may have the Council survey the living expenses and wages of workers pursuant to Article 23 of the Act. *<Amended by Presidential Decree No. 22269, Jul. 12, 2010>*

<This Article Wholly Amended by Presidential Decree No.21572, Jun. 26, 2009>

Article 20 (Execution of Duties by Labor Inspectors)

When a labor inspector executes duties related to the enforcement of the Act pursuant to Article 26 (1) of the Act, he/she shall be subject to the direction and supervision of the head of the local employment and labor office to which he/she belongs. *<Amended by Presidential Decree No 22269, Jul. 12, 2010>*

<This Article Wholly Amended by Presidential Decree No.21572, Jun. 26, 2009>

Article 21 (Identification Certificate)

The identification certificate referred to in Article 26 (3) of the Act shall be same as the one prescribed in Article 7 of the Labor Inspector Regulations.

<This Article Wholly Amended by Presidential Decree No.21572, Jun. 26, 2009>

Article 21-2 (Delegation of Authority)

The Minister of Employment and Labor shall delegate the authority described in any of the following subparagraphs to the heads of local employment and labor offices in accordance with Article 26-2 of the Act: *<Amended by Presidential Decree No 22269, Jul. 12, 2010>*

1. Authorization of exclusion from the application of the minimum wage under Article 7 of the Act;
2. Demand for a report under Article 25 of the Act;
3. Imposition and collection of a fine for negligence under Article 31 of the Act.

<This Article Wholly Amended by Presidential Decree No.21572, Jun. 26, 2009>

Article 22 (Criteria for Imposition of Fine for Negligence)

The criteria for imposition of fines for negligence under Article 31 (1) of the Act are provided for in the annexed Table.

<This Article Wholly Amended by Act No 22805, Mar. 30, 2011>

Addenda *<Presidential Decree No. 19771, Dec. 21, 2006>*

(1) (Enforcement Date)

This Decree shall enter into force on January 1, 2007.

(2) (Valid Period of Minimum Wage for Workers Engaged in Surveillance or Intermittent Work)

The revised provision of Article 3 (2) shall be valid until December 31, 2011.

(3) (Special Cases of Application of Minimum Wage to Workers Engaged in Surveillance or Intermittent Work)

Notwithstanding the revised provision of Article 3 (2), with regard to those engaged in surveillance or intermittent work and for whom the employer has obtained approval from the Minister of Labor, the hourly minimum wage rate shall be the hourly minimum wage rate prescribed in the latter part of Article 5 (1) of the Act, subtracted by 30/100 thereof, until December 31, 2007.

Addendum <Presidential Decree No. 21572, Jun. 26, 2009>

This Decree shall enter into force on the day of its promulgation. The enforcement date of the revised provision of Article 5-2 shall be as follows:

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

Addenda <Presidential Decree No. 22269, Jul. 12, 2010>

Article 1 (Enforcement Date)

This Decree shall enter into force on the day of its promulgation. <Proviso omitted>

Article 2 (Revision of Other Decrees)

(1) through (121) Omitted.

(122) Parts of the Enforcement Decree of the Minimum Wage Act shall be revised as follows:

"Minister of Labor" in Article 3 (2), Articles 6 through 8, parts other than each subparagraph of Article 9, Article 10, Article 12 (1) through (3), subparagraph 4 of Article 13, Article 15, Article 19, parts other than each subparagraph of Article 21-2 and Article 22 (2) shall be changed to "Minister of Employment and Labor".

"Local labor office" in Article 20 and parts other than each subparagraph of Article 21-2 shall be changed to "local employment and labor office".

(123) through (136) Omitted.

Addenda <Presidential Decree No. 22805, Mar. 30, 2011>

Article 1 (Enforcement Date)

This Decree shall enter into force on the day of its promulgation.

Article 2 (Transitional Measures concerning Fines for Negligence)

The application of the criteria for imposition of fines for negligence to offenses committed before this Decree enters into force shall be governed by the previous provisions notwithstanding the amended provisions of Table.

[Table] <Amended on Mar. 30, 2011>

Criteria for Imposition of Fines for Negligence

(relating to Article 22)

1. General criteria

The Minister of Employment and Labor may, if an offender falls under any of the following conditions, reduce the amount of fine for negligence under subparagraph 2 by up to half : Provided that this shall not apply to offenders who delay payment of a fine for negligence.

- 1) Where the offender falls under any subparagraph of Article 2-2 (1) of the Enforcement Decree of the Act on the Regulation of Violations of Public Order;
- 2) Where the offender has a reason, such as suffering a considerable loss to property due to a natural disaster, fire, etc., or facing a serious crisis due to worsening business conditions;
- 3) Where the offense is deemed to have been caused by a mistake, such as minor carelessness or error, etc.;
- 4) Other cases where it is deemed necessary to reduce the amount of fine for negligence in consideration of the degree of offense, the motive and consequences of offense, etc.

2. Specific criteria

Offense	Provision	Amount of fine for negligence
A. Where a person fails to widely inform workers of the relevant minimum wage through the means prescribed in Article 11 of the Act in violation of the same Article	Article 31 (1) 1 of the Act	1 million won

<p>B. Where a person fails to make a report on matters concerning wages under Article 25 of the Act or makes a false report</p>	<p>Article 31 (1) 2 of the Act</p>	<p>1 million won</p>
<p>C. Where a person refuses, obstructs or evades a demand or an inspection by a labor inspector under Article 26 (2) of the Act or makes a false statement in response to his/her question</p>	<p>Article 31 (1) 3 of the Act</p>	<p>1 million won</p>