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ENFORCEMENT DECREE OF THE MINIMUM WAGE ACT

[Enforcement Date 01. Jan, 2019.] [Presidential Decree No.29469, 31. Dec, 2018., Partial Amendment] 고용노동부 (근로기준정책과). 044-202-7535

Article 1 (Purpose) The purpose of this Decree is to prescribe matters mandated 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.
 Sy Presidential Decree No. 19029, Aug. 31, 2005>

Article 3 (Minimum Wage Amount for Employees on Probation) Pursuant to the main sentence of Article 5 (2) of the Minimum Wage Act (hereinafter referred to as the "Act"), an employee who signed a labor contract for at least one year period and has been on probation for not longer than three months shall receive the amount obtained by subtracting 10/100 from the minimum hourly wage under the latter part of paragraph (1) of the same Article (referring to the amount set as minimum wage; hereinafter the same shall apply) as his/her minimum wage.

[This Article Wholly Amended by Presidential Decree No. 28711, Mar. 20, 2018]

Article 4 (Special Cases on Decision of Minimum Wage Amount for Piecework System) Pursuant to Article 5 (3) of the Act, where wages are ordinarily fixed on a piecework basis or in any other similar manner, if it is difficult to calculate the number of working hours or if it is deemed inappropriate to determine the minimum wage amount in the manner prescribed in paragraph (1) of the same Article, the minimum wage amount shall be determined on the basis of output or performance of the employee 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 used to determine the wages of an employee is different from the unit period used to determine the minimum wage applied to the employee, the employee's wages shall be converted into an hourly wage rate pursuant to the following classifications: Amended by Presidential Decree No. 29469, Dec. 31, 2018>

- 1. As to the wages determined on a daily basis: The amount divided by the contractual working hours per day;
- 2. As to the wages determined on a weekly basis: The amount divided by the standard hours for applying minimum wages per week (referring to the hours aggregating the contractual working hours per week and the paid hours under Article 55 (1) of the Labor Standards Act);
- 3. As to the wages determined on a monthly basis: The amount divided by the standard hours for applying minimum wages per month (referring to the hours divided by 12 after multiplying the standard

- hours for applying minimum wages per week under subparagraph 2 and the average number of weeks for a year);
- 4. As to the wages determined on a certain period basis other than hour, day, week, or month: The amount calculated mutatis mutandis pursuant to subparagraphs 1 through 3.
- (2) For wages fixed on the basis of output or on a piecework basis, the wage per hour shall be calculated by dividing the total amount of wages during a wage calculation period (if a wage closing date exists, referring to the wage closing period; hereafter the same shall apply in this paragraph) by the number of total working hours during the wage calculation period.
- (3) If any employee's wages consist of two or more kinds of wages determined by paragraph (1) or (2), the wage per hour for the employee shall be the total of wages converted under the respective provision for the relevant portion.
- (4) If the contractual working hours per the unit period used to determine the wages of an employee is different from the working hours per a unit period used to determine the minimum wage applied to the employee, the employee's wages shall be converted to the wage per hour under the classifications of each subparagraph of paragraph (1).

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

Article 5–2 (Calculation of Monthly Conversion Amount) The monthly conversion amount under Article 6 (4) 2 of the Act and subparagraph 3 (b) of the same paragraph shall be calculated by multiplying the hourly minimum wage of the relevant year by the standard hours for applying minimum wages per month under Article 5 (1) 3.

[This Article Newly Inserted by Presidential Decree No. 29469, Dec. 31, 2018]

Article 5-3 (Scope of Wages Included in Minimum Wage of Drivers in Taxi Transport

Business) "Wages prescribed by Presidential Decree" in Article 6 (5) of the Act means the wages paid at least once per month according to the payment conditions and payment rate prescribed in a collective agreement, employment rules, or a labor contract: Provided, That none of the following wages shall be included:

- 1. Wages other than those paid for contractual working hours or contractual working days;
- 2. Wages paid for subsidy for living and welfare of employees.

[This Article Newly Inserted by Presidential Decree No. 21572, Jun. 26, 2009]

Article 6 (Standard for Authorization of Exclusion from Application of Minimum Wage) A person to whom the employer can exclude the application of minimum wage with the authorization of the Minister of Employment and Labor under Article 7 of the Act means a person whose mental or physical disability is deemed to be clear and direct obstacle to perform the work assigned. 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 the Minimum Wages Commission) The Minister of Employment and Labor shall request the Minimum Wage Commission (hereinafter referred to as the "Commission") to deliberate on the minimum wage by the 31st of March every year under Article 8 (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 8 (Public Notice of Minimum Wage Proposal) If the minimum wage proposal has been submitted to the Minister of Employment and Labor by the Commission under Article 8 (2) of the Act, the Minister of Employment and Labor shall, without delay, publicly notify the minimum wage proposal by type

of business or workplace (hereinafter referred to as "business") and the scope of applicable business under 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 (Raising of Objection to Minimum Wage Proposal) A person who intends to raise an objection under the former part of Article 9 (2) of the Act shall submit to the Minister of Employment and Labor a written objection clearly indicating the following matters: <Amended by Presidential Decree No. 22269, Jul. 12, 2010>
 - 1. Name, address, post, and position of the person raising an objection;
 - 2. Main points of the minimum wage proposal for the type of business subject to objection;
 - 3. Reasons for and contents of objection.

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

Article 10 (Scope of Representative of Employees or Employers Qualified to Raise Objections) A representative of employees under the latter part of Article 9 (2) of the Act shall be the representative of the confederation of trade unions or the industrial federation of trade unions and a representative of employers shall be the representative of the nationwide organized employers'

association which is 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 Give Notice)(1) Details of the minimum wage which an employer shall notify to employees under Article 11 of the Act shall be as follows:

- 1. The minimum wage amount for the employees concerned;
- 2. Wages not included in the minimum wage under Article 6 (4) of the Act;
- 3. Scope of employees in the business concerned to whom the minimum wage does not apply under Article 7 of the Act;
- 4. Effective date of the minimum wage.
- (2) The employer shall notify employees of the details of the minimum wage under 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 or Appointment of Commission Members)(1) Employee members, employer members, and pubic interest members under Article 14 (1) of the Act shall be commissioned by the President upon the nomination of the Minister of Employment and Labor. Amended by Presidential
 Decree No. 22269, Jul. 12, 2010>
 - (2) Permanent members under Article 14 (2) of the Act shall be appointed by the President upon the nomination of the Minister of Employment and Labor. Amended by Presidential Decree No. 22269, Jul. 12, 2010>
 - (3) Employee members shall be nominated from among persons recommended by the confederation of trade unions, and employer members shall be nominated from among the persons recommended by the nationwide organized employers' association designated by the Minister of Employment and Labor.

<Amended by Presidential Decree No. 22269, Jul. 12, 2010>

(4) Where a vacancy occurs, the successor shall be commissioned or appointed within 30 days from the date of the vacancy: Provided, That where the remaining term of office of a predecessor is not less than one year, the commission or appointment of a successor may be omitted.

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

- Article 12-2 (Dismissal of Commission Members) In any of the following cases, the President may dismiss any relevant member referred to in Article 14 (1) 1 through 3 of the Act:
 - 1. Where he/she becomes incapable of performing his/her duties due to a mental or physical disability;
 - 2. Where it is found that he/she is involved in any misconduct in connection with his/her duties;
 - 3. Where it is deemed that he/she is not unsuitable for serving as a member due to neglect of duties, injury to dignity, or any other reason;
 - 4. Where he/she declares himself/herself that it is impracticable for him/her to perform duties. [This Article Newly Inserted by Presidential Decree No. 26844, Dec. 31, 2015]
- Article 13 (Criteria for Commission of Public Interest Members) Public interest members shall be commissioned from among persons who meet any of the following qualifications: Amended by Presidential Decree No. 22269, Jul. 12, 2010>
 - 1. Persons who were public officials of Grade III or higher or public officials belonging to the Senior Executive Service with profound academic knowledge and experience in labor matters;
 - 2. Persons who currently hold or previously held offices as an associate professor or higher position in the field of labor economics, labor management relations, labor law, sociology, social welfare, or other fields related thereto in a university for not less than five years;
 - 3. Persons who currently engage in or previously engaged in research into labor relations in an officially authorized research institute for not less than 10 years (five years in cases of a doctorate degree holder in the fields specified in subparagraph 2);
 - 4. Other persons recognized by the Minister of Employment and Labor to have profound knowledge and experience equivalent to those referred to in subparagraphs 1 through 3.

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

- Article 14 (Appointment Qualification of Permanent Members) Permanent members of the Commission shall be appointed from among persons who meet any of the following qualifications:
 - 1. Persons who have experience in the field of labor administration as public officials of Grade III or higher or public officials belonging to the Senior Executive Service;
 - 2. Persons who previously held office as an associate professor or a higher position in the field of labor economics, labor-management relations, labor law, sociology, social welfare, or other fields related thereto in a university for not less than five years.

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

Article 15 (Commission of Special Members) Special members under Article 16 of the Act shall be commissioned by the Minister of Employment and Labor from among public officials of Grade III or higher in the related administrative agencies or public officials belonging to the Senior Executive Service.

<Amended by Presidential Decree No. 22269, Jul. 12, 2010>

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

Article 16 (Compensation for Actual Expense) Relevant employees and employers and other related persons who appear at the Commission (including a technical committee to which Article 19 (4) of the Act apply mutatis mutandis) under Article 18 of the Act may be paid allowances and travel expenses within budgetary limits.

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

Article 17 (Composition of Technical Committee)(1) A technical committee under Article 19 (1) of the Act shall be comprised of members designated by the Chairperson of the Commission from among its members.

(2) If the Chairperson of the Commission deems it difficult to organize a technical committee under paragraph (1) only with the members of the Commission or deems it necessary to review the matters concerned specially, the Chairperson may commission members of the technical committee separately. In such cases, among members of a technical committee separately commissioned, Article 12 (3) shall apply mutatis mutandis to the commission of employee members and employer members; 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 (Allowance of Members) The members, other than permanent members of the Commission under Article 14 (1) of the Act, and the members of a technical committee under Article 19 (3) of the Act may be paid allowances and travel expenses necessary to perform their duties within budgetary limits; the allowance shall be paid on the basis of the number of attending dates and the travel expenses shall be paid in the amount corresponding to the amount paid to those who are in the position of permanent 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 Commission survey the living expenses and wage conditions of employees under 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 (Executing Affairs by Labor Inspector)When a labor inspector performs the duties for the enforcement of the Act pursuant to Article 26 (1) of the Act, the labor inspector shall follow the direction of the head of the regional employment and labor office to which the inspector 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 Card) The identification card under Article 26 (3) of the Act shall be the same one as under 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 following authority to the head of a regional employment and labor office under 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 administrative fines under Article 31 of the Act,

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

Article 21-3 (Handling of Personally Identifiable Information) Where the Minister of Employment and Labor (including agencies delegated with the authority of the Minister of Employment and Labor as prescribed in Article 21-2) deems it unavoidable to perform duties concerning the authorization of exclusion from the application of a minimum wage under Article 7 of the Act, he/she may handle data containing resident registration numbers or alien registration numbers under subparagraph 1 or 4 of Article 19 of the Enforcement Decree of the Personal Information Protection Act.

[This Article Newly Inserted by Presidential Decree No. 23488, Jan. 6, 2012]

Article 22 (Criteria for Imposition of Administrative Fines) The criteria for imposition of administrative fines under Article 31 (1) of the Act are listed in the attached Table.

[This Article Wholly Amended by Presidential Decree No. 22805, Mar. 30, 2011]

- ADDENDUM <Presidential Decree No. 12488, Jul. 7, 1988>
 - This Decree shall enter into force on the date of its promulgation.
- ADDENDA < Presidential Decree No. 12746, Jul. 4, 1989>
 - (1) (Enforcement Date) This Decree shall enter into force on the date of its promulgation.
- ADDENDUM < Presidential Decree No. 14035, Dec. 29, 1993>
 - This Decree shall enter into force on January 1, 1994.
- ADDENDA < Presidential Decree No. 16190, Mar. 17, 1999>
 - (1) (Enforcement Date) This Decree shall enter into force on the date of its promulgation: Provided, That the amended provisions of Article 2 shall enter into force on September 1, 1999.
- ADDENDUM <Presidential Decree No. 18312, Mar. 17, 2004>
 This Decree shall enter into force on the date of its promulgation.
- ADDENDA <Presidential Decree No. 18911, Jun. 30, 2005>
 Article 1 (Enforcement Date)
- ADDENDUM < Presidential Decree No. 19029, Aug. 31, 2005>
 This Decree shall enter into force on September 1, 2005.
- ADDENDA <Presidential Decree No. 19513, Jun. 12, 2006>
 Article 1 (Enforcement Date)
- ADDENDA < Presidential Decree No. 19771, Dec. 21, 2006>
 - (1) (Enforcement Date) This Decree shall enter into force on January 1, 2007.
- ADDENDUM < Presidential Decree No. 21572, Jun. 26, 2009>
 - This Decree shall enter into force on the date of its promulgation: Provided, That the enforcement date of the amended provisions of Article 5–2 shall be as follows:
- ADDENDA APresidential Decree No. 22269, Jul. 12, 2010>
 Article 1 (Enforcement Date)
- ADDENDA APresidential Decree No. 22805, Mar. 30, 2011>
 Article 1 (Enforcement Date)
- ADDENDA APresidential Decree No. 23388, Dec. 21, 2011>
 Article 1 (Enforcement Date)
- ADDENDA APresidential Decree No. 23488, Jan. 6, 2012>
 Article 1 (Enforcement Date)
- ADDENDUM <Presidential Decree No. 26844, Dec. 31, 2015>
 This Decree shall enter into force on the date of its promulgation.
- ADDENDUM < Presidential Decree No. 28711, Mar. 20, 2018>

This Decree shall enter into force on March 20, 2018.

ADDENDUM < Presidential Decree No. 29469, Dec. 31, 2018>

This Decree shall enter into force on January 1, 2019.