

# **Labor Standards Act**

**(Act No. 49 of April 7, 1947)**

**(Provisional translation by the specialist)**

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Act No. 70 of May 16, 1949  
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Act No. 290 of Dec. 20, 1950  
Act No. 287 of July 31, 1952  
Act No. 171 of June 10, 1954  
Act No. 126 of June 4, 1956  
Act No. 133 of May 2, 1958  
Act No. 137 of Apr. 15, 1959  
Act No. 161 of Sep. 15, 1962  
Act No. 130 of June 11, 1965  
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Act No. 64 of July 18, 1969  
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Act No. 34 of May 27, 1976  
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Act No. 104 of July 4, 2003

**Act No. 76 of June 2, 2003**  
**Act No. 147 of Dec. 1, 2003**

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# CHAPTER I

## GENERAL PROVISIONS

### (Principle of Working Conditions)

**Article 1.** Working conditions shall be those which should meet the needs of workers who live lives worthy of human beings.

2. The standards for working conditions prescribed by this Act are minimum standards. Accordingly, parties to labor relations shall not reduce working conditions with these standards as an excuse and, instead, should endeavor to raise the working conditions.

### (Determination of Working Conditions)

**Article 2.** Working conditions should be determined by the workers and employers on an equal basis.

2. The workers and employers shall observe collective agreements, rules of employment and labor contracts, and shall perform their respective duties faithfully.

### (Equal Treatment)

**Article 3.** An employer shall not engage in discriminatory treatment with regard to wages, working hours or other working conditions by reason of the nationality, creed or social status of any worker.

### (Principle of Equal Wages for Men and Women)

**Article 4.** An employer shall not engage in discriminatory treatment of a woman as compared with a man with regard to wages by reason of the worker being a woman.

**(Prohibition of Forced Labor)**

**Article 5.** An employer shall not force workers to work against their will by means of violence, intimidation, confinement, or any other unfair restraint on the mental or physical freedom of the workers.

**(Elimination of Intermediate Exploitation)**

**Article 6.** Unless permitted by Act, no person shall obtain profit by intervening, in the course of trade, in the employment of others.

**(Guarantee of the Exercise of Civil Rights)**

**Article 7.** An employer shall not refuse when a worker requests time necessary to exercise franchise and other civil rights or to perform public duties during working hours; provided, however, that the employer may make a change in the time requested by the worker to the extent that such change does not hinder the exercise of the right or the performance of the public duty.

**Article 8. Deleted**

**(Definitions)**

**Article 9.** In this Act, worker shall mean one who is employed at an enterprise or place of business (hereinafter referred to as an enterprise) and receives wages therefrom, without regard to the kind of occupation.

**Article 10.** In this Act, employer shall mean the business operator or manager of the enterprise or any other person who acts on behalf of the business operator of the enterprise in matters concerning the workers of the enterprise.

**Article 11.** In this Act, wage shall mean the wage, salary, allowance, bonus and every other payment to the

worker from the employer as remuneration for labor, regardless of the name by which such payment may be called.

**Article 12.** In this Act, the amount of the average wage shall mean the amount obtained by dividing the total amount of wages for a period of 3 months preceding the day on which the calculation or average wage became necessary by the number of all days during the period; provided, however, that the amount of the average wage shall not be less than the amount computed by one of the following methods:

- (1) In the event that the wage is computed on the basis of working days or hours, or determined in accordance with payment at a piece rate or other contract price, 60 percent of the amount obtained by dividing the total sum of wages by the number of actual working days during the period;
- (2) In the event that a portion of the wage is determined on the basis of months, weeks, or any other fixed period, the aggregate of (a) the amount obtained by dividing the total amount of any such portion of the wage by the number of all days during that period and (b) the amount under the foregoing method.

2. When there is a fixed day for closing the wage account, the period set forth in the preceding paragraph shall be calculated from the last such fixed day.

3. If the period prescribed in the preceding two paragraphs falls under any of the following items, the number of days and the wages in such a period shall be excluded from the days and total amount of wages set forth

**in the preceding two paragraphs:**

- (1) Days of absence from work for medical treatment caused by injury or disease in the course of duties;**
- (2) Days of absence from work for women before and after childbirth pursuant to the provisions of Article 65;**
- (3) Days of absence from work caused by reasons attributable to the employer;**
- (4) Period of childcare leave prescribed in item 1 of Article 2 of the Act Concerning the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care and Family Care Leave (Act No. 76 of 1991), or period of family care leave prescribed in item 2 of the said Article (including leave for family care prescribed in paragraph 3 of Article 61 of the said Act (including cases which apply mutatis mutandis under paragraph 6 through paragraph 8 of the said Article); the same shall apply to paragraph 7 of Article 39);**
- (5) Probationary period.**

**4. The total amount of wages set forth in paragraph 1 shall not include extraordinary wages, wages which are paid periodically for a period exceeding 3 months and wages which are paid in anything other than currency and which are not within a fixed scope.**

**5. In the event that a wage is paid in anything other than currency, necessary matters relating to the scope of such wage to be included in the total amount of wages set forth in paragraph 1 and the method for calculating such wage shall be prescribed by Ordinance of the Ministry of Health, Labor and Welfare.**



**6. For a worker who has been employed for less than 3 months, the period set forth in paragraph 1 shall be the period of his or her employment.**

**7. The average wage for a day laborer shall be fixed by the Minister of Health, Labor and Welfare according to the kind of enterprise or occupation in which such day laborer is engaged.**

**8. In the event that the average wage cannot be computed in accordance with paragraphs 1 through 6, the average wage will be determined in the manner prescribed by the Minister of Health, Labor and Welfare.**

## CHAPTER II

### LABOR CONTRACT

(Contract Violating This Act)

**Article 13.** A labor contract which provides for working conditions which do not meet the standards of this Act shall be invalid with regard to such portions. In such a case the portions which have become invalid shall be governed by the standards provided in this Act.

(Period of Contract)

**Article 14.** Labor contracts, excluding those without a definite period, and excepting those providing that the period shall be the period necessary for completion of a specified project, shall not be concluded for a period longer than 3 years (or 5 years with regard to labor contracts that fall under any of the following items).

- (1) Labor contracts concluded with workers who have expert knowledge, skills or experience (hereinafter referred to as "expert knowledge etc." in this Item), that expert knowledge etc, being of an advanced level and falling under the standards prescribed by the Minister of Health, Labor and Welfare (limited to those workers who are appointed to work activities requiring the prescribed advanced level of expert knowledge etc.).
- (2) Labor contracts concluded with workers aged 60 years or older (excluding labor contracts listed in the preceding item).

2. The Minister of Health, Labor and Welfare may, in order to preemptively prevent disputes arising between workers and employers at the time of conclusion and the time of expiry of labor contracts which are of definite period, prescribe standards in relation to the notice employers should give in connection with matters relating to the expiry of the period of labor contracts and other necessary matters.

3. The administrative office may, in relation to the standards set forth in the preceding paragraph, give necessary advice and guidance to employers concluding labor contracts which are of definite period.

(Clear Indication of Working Conditions)

**Article 15.** In concluding a labor contract, the employer shall clearly indicate the wages, working hours and other working conditions to the worker. In this case, matters concerning wages and working hours and other matters stipulated by Ordinance of the Ministry of Health, Labor and Welfare shall be clearly indicated in the manner prescribed by Ordinance of the Ministry of Health, Labor and Welfare.

2. In the event that the working conditions as clearly indicated by the provisions of the preceding paragraph differ from actual fact, the worker may immediately cancel the labor contract.

3. In the case referred to in the preceding paragraph, in the event that a worker who has changed his or her residence for the work returns home within 14 days from the date of cancellation, the employer shall bear the necessary travel expenses for the worker.

**(Ban on Predetermined Indemnity)**

**Article 16.** An employer shall not make a contract which fixes in advance either a sum payable to the employer for breach of contract or an amount of indemnity for damages.

**(Ban on Offsets against Advances)**

**Article 17.** An employer shall not offset wages against advances of money or advances of other credits made as a condition for work.

**(Compulsory Savings)**

**Article 18.** An employer shall not require a contract for savings or make a contract to take charge of savings incidental to the labor contract.

2. An employer, in taking charge of workers' savings entrusted to the employer by the workers, shall conclude a written agreement with a labor union organized by a majority of the workers at the workplace, where such a union exists, or with a person representing a majority of the workers, where no such union exists, and shall submit the written agreement to the administrative office.

3. An employer, in taking charge of workers' savings entrusted to the employer by the workers, shall establish rules governing the keeping of savings and take steps to inform the workers of these rules, such as posting such rules at the workplace.

4. An employer, in taking charge of workers' savings entrusted to the employer by the workers, shall pay interest in the event that the savings kept in custody constitute a deposit accepted. If, in this case, the amount of interest paid is below the amount of interest based on the interest rate

established by Ordinance of the Ministry of Health, Labor and Welfare with due consideration of the interest rate for deposits received by banking institutions, the employer shall be deemed to have paid interest equivalent to that based on the rate determined by Ordinance of the Ministry of Health, Labor and Welfare.

5. An employer, in taking charge of workers' savings entrusted to the employer by the workers, shall return the savings to the workers on request without delay.

6. In the event that the employer has violated the provisions of the preceding paragraph and the continued taking charge of the workers' savings by the employer is deemed as seriously detrimental to the interests of the workers, the administrative office may order the employer to suspend taking charge of the savings in question within such limits as are necessary.

7. An employer, who has been ordered to suspend taking charge of savings pursuant to the provisions of the preceding paragraph, shall return those savings pertaining to the above suspension to the workers without delay.

(Dismissal)

**Article 18-2.** A dismissal shall, where the dismissal lacks objectively reasonable grounds and is not considered to be appropriate in general societal terms, be treated as an abuse of that right and invalid.

(Restrictions on Dismissal of Workers)

**Article 19.** An employer shall not dismiss a worker during a period of absence from work for medical treatment with regard to injuries or illnesses suffered in the course of duties nor within 30 days thereafter, and shall not

discharge a woman during a period of absence from work before and after childbirth pursuant to the provisions of Article 65 nor within 30 days thereafter; provided, however, that this shall not apply in the event that the employer pays compensation for discontinuance pursuant to Article 81 nor when the continuance of the enterprise has been made impossible by a natural disaster or other unavoidable reason.

2. In the case referred to in the second sentence of the proviso of the preceding paragraph, the employer shall obtain the approval of the administrative office with regard to the reason in question.

(Advance Notice of Dismissal)

**Article 20.** In the event that an employer wishes to dismiss a worker, the employer shall provide at least 30 days advance notice. An employer who does not give 30 days advance notice shall pay the average wages for a period of not less than 30 days; provided, however, that this shall not apply in the event that the continuance of the enterprise has been made impossible by a natural disaster or other unavoidable reason nor when the worker is dismissed for cause imputable to the worker.

2. The number of days of notice set forth in the preceding paragraph may be reduced in the event that the employer pays the average wage for each day by which the period is reduced.

3. The provisions of paragraph 2 of the preceding Article shall apply mutatis mutandis to a case under the proviso to paragraph 1.

**Article 21.** The provisions of the preceding article shall

not apply to any worker falling under any of the following items; provided, however, that this shall not be the case with regard to a worker falling under item 1 who has been employed consecutively for more than one month, a worker falling under either item 2 or item 3 who has been employed consecutively for more than the period set forth in each such item respectively, nor a worker falling under item 4 who has been employed consecutively for more than 14 days:

- (1) Workers who are employed on a daily basis;
- (2) Workers who are employed for a fixed period not longer than 2 months;
- (3) Workers who are employed in seasonal work for a fixed period not longer than 4 months;
- (4) Workers in a probationary period.

(Certificate when Retirement)

**Article 22.** When a worker on the occasion of retirement requests a certificate stating the period of employment, the kind of occupation, the position in the enterprise, the wages or the reason for retirement (if the reason for retirement is dismissal, including its reason), the employer shall issue one without delay.

2. The employer shall, where a worker has, in the period between being given the advance notice in Article 20, paragraph 1 and the day of retirement, requested a certificate in relation to the reason for the said dismissal, issue the certificate without delay; provided, however, where the worker retires after the day of the advance notice on grounds other than those for the said dismissal, it is not necessary, after the said day of retirement, for the employer to issue the certificate.

3. The employer shall not include in the certificate set forth in the preceding 2 paragraphs any matter that the worker does not request.

4. An employer shall not, in a premeditated plan with a third party and with the intent to impede the employment of a worker, send any communication concerning the nationality, creed, and social status or union activities of the worker or include any secret sign in the certificates set forth in paragraphs 1 and 2.

**(Return of Money and Goods)**

**Article 23.** Upon a worker's death or retirement, in the event of a request by one having the right thereto, the employer shall pay the wages and return the reserves, security deposits, savings, and any other funds and valuables to which the worker is rightfully entitled, regardless of the name by which such funds and valuables may be called, within 7 days.

2. In the event that there is a dispute over the wages and/or funds and valuables referred to in the preceding paragraph, the employer shall pay and/or return any undisputed portions within the period referred to in the preceding paragraph.



## CHAPTER III

### WAGES

#### (Payment of Wages)

**Article 24.** Wages shall be paid in currency and in full directly to the workers; provided, however, that payment other than in currency may be permitted in cases otherwise provided for by laws and regulations or collective agreement or in cases where a reliable method of payment of wages prescribed by Ordinance of the Ministry of Health, Labor and Welfare is provided for; and partial deduction from wages may be permitted in cases otherwise provided for by laws and regulations or in cases where there exists a written agreement with a labor union organized by a majority of the workers at the workplace concerned, where such a union exists, or with a person representing a majority of the workers, where no such union exists.

2. Wages shall be paid at least once a month at a definite date; provided, however, this shall not apply to special wages, bonuses, and the equivalent thereof which will be prescribed by Ordinance of the Ministry of Health, Labor and Welfare (referred to as “special wages” in Article 89).

#### (Extraordinary Payments)

**Article 25.** In the event that a worker requests the payment of wages to be allocated covering extraordinary expenses for childbirth, illness, accident, or other emergency as set forth by Ordinance of the Ministry of Health, Labor

and Welfare, the employer shall pay accrued wages prior to the normal date of payment.

**(Allowance for Absence from Work)**

**Article 26.** In the event of an absence from work for cause imputable to the employer, the employer shall pay an allowance equal to 60 percent or more of the worker's average wage to each worker concerned during the period of absence from work.

**(Guaranteed Payment at Piece Rates)**

**Article 27.** With regard to workers employed under a system of payment at piece rates or other subcontracting system, the employer shall guarantee a fixed amount of wage proportionate to working hour.

**(Minimum Wages)**

**Article 28.** Minimum standards for wages shall be prescribed by the provisions of the Minimum Wages Act (Act No. 137 of 1959).

**Articles 29 to 31. Deleted.**

## CHAPTER IV

### WORKING HOURS, REST PERIODS, REST DAYS, AND ANNUAL PAID LEAVE

#### (Working Hours)

**Article 32.** An employer shall not have a worker work more than 40 hours per week, excluding rest periods.

2. An employer shall not have a worker work more than 8 hours per day for each day of the week, excluding rest periods.

#### (Monthly Working Hours Averaging System)

**Article 32-2.** In the event that an employer has stipulated, pursuant to a written agreement with a labor union organized by a majority of the workers at the workplace concerned where such a union exists, or with a person representing a majority of the workers where no such union exists, or pursuant to rules of employment or the equivalent thereof, that the average working hours per week over the course of a fixed period of no more than one month will not exceed the working hours set forth in paragraph 1 of the preceding Article, the employer may, pursuant to such stipulation and regardless of the provisions of the preceding Article, have a worker work in excess of the working hours set forth in paragraph 1 of the preceding Article in a specified week or weeks and may have a worker work in excess of the working hours set forth in paragraph 2 of the preceding Article in a specified day or days.

2. The employer shall submit the agreement stipulated in the preceding paragraph to the administrative office, pursuant to Ordinance of the Ministry of Health, Labor and Welfare.

(Flexitime System)

**Article 32-3.** In the event that the following items have been provided in a written agreement either with a labor union organized by a majority of the workers at the workplace concerned where such a labor union exists, or with a person representing a majority of the workers where no such labor union exists, the employer may, with regard to a worker for whom the starting and ending time for work is left to the worker's own decision pursuant to rules of employment or the equivalent, and regardless of the provisions of Article 32, have such a worker work in excess of the working hours set forth in paragraph 1 of Article 32 in a week and may have such a worker work in excess of the working hours set forth in paragraph 2 of that Article in a day, to the extent that the average working hours per week during a period provided in the above-mentioned written agreement as the settlement period (of which conditions are defined in item 2 below) does not exceed the working hours set forth in paragraph 1 of Article 32:

- (1) The scope of workers whom the employer may have work under the working hour provisions of this Article;
- (2) A settlement period (which shall be a period, not exceeding one month in length, during which average working hours per week will not exceed the working hours under Article 32, paragraph 1. The same shall apply in the following item.);

- (3) Total working hours in the settlement period;
- (4) Other matters as set forth by Ordinance of the Ministry of Health, Labor and Welfare.

(Annual Working Hours Averaging System)

**Article 32-4.** In the event that the employer has stipulated the following matters pursuant to a written agreement either with a labor union organized by a majority of the workers at the workplace concerned where such a labor union exists, or with a person representing a majority of the workers at a workplace where no such labor union exists, notwithstanding the provisions of Article 32, the employer may have a worker work in excess of the working hours set forth in paragraph 1 of Article 32 in a specified week or weeks and may have a worker work in excess of the working hours set forth in paragraph 2 of that Article in a specified day or days pursuant to the said written agreement (including stipulations that have been set under the provisions of the following paragraph in cases where this is applicable), to the extent that the average working hours per week for the period set in that agreement as the applicable period defined at item 2 below does not exceed 40 hours:

- (1) The scope of workers whom the employer may have work under the working hours provisions of this Article;
- (2) Applicable period (a period longer than one month but not exceeding one year, during which the average working hours per week does not exceed 40 hours; the same shall apply hereinafter in this Article and the following Article);

- (3) Specified period (a period within the applicable period when work is particularly busy; the same shall apply to paragraph 3);**
- (4) Working days in the applicable period and working hours for each of the said working days (in cases where the applicable period is divided into sub-periods of one month or more, working days and working hours for each working day in the sub-period which includes the first day of the applicable period (hereinafter in this Article referred to as the “initial sub-period”) and the number of working days and total working hours of each sub-period excluding the initial sub-period);**
- (5) Other matters as stipulated by Ordinance of the Ministry of Health, Labor and Welfare.**

**2. In the event that in the written agreement of the preceding paragraph the employer has divided the applicable period as provided for in item 4 of the said paragraph, and stipulated the number of working days and total working hours for each sub-period excluding the initial sub-period, the employer shall, no later than 30 days before the first day of each sub-period, and with the consent of either a labor union organized by a majority of the workers at the workplace concerned where such a labor union exists or a person representing a majority of the workers at a workplace where no such labor union exists and pursuant to the provisions of Ordinance of the Ministry of Health, Labor and Welfare, stipulate the working days within each sub-period, to the extent that it does not exceed the said number of working days and the working hours for each working day in each sub-period, to the extent that it does not exceed the**

said total working hours.

3. After hearing the opinions of the Labor Policy Council, the Minister of Health, Labor and Welfare may establish limits by Ordinance of the Ministry of Health, Labor and Welfare concerning the number of working days in the applicable period, the daily and weekly working hours in the applicable period, and the number of consecutive days within the applicable period (excluding the period set as the specified period by the written agreement stipulated in paragraph 1) and the period set as the specified period by the written agreement stipulated in the said paragraph on which the employer may have workers work.

4. The provisions of paragraph 2 of Article 32-2 shall apply mutatis mutandis to an agreement under paragraph 1.

**Article 32-4-2.** In the event that, pursuant to the provisions of the preceding Article, an employer has a worker work during the applicable period for a period shorter than the said applicable period, and the average weekly hours the employer has the worker work exceeds 40 hours, the employer shall pay increased wages for the working hours that exceed 40 hours (excluding working hours that have been extended or working hours on rest days pursuant to the provisions of Article 33 or paragraph 1 of Article 36) as provided for in Article 37.

(Weekly Non-regular Working Hours Averaging System)

**Article 32-5.** With regard to workers employed in enterprises of which business categories are specified by Ordinance of the Ministry of Health, Labor and Welfare as

having an amount of daily business which is often subject to wide fluctuations and given this forecast it would be difficult to fix daily working hours by rules of employment or the equivalent, and of which the number of regular employees is under the number specified by Ordinance of the Ministry of the Health, Labor and Welfare, the employer may, regardless of the provisions of paragraph 2 of Article 32, have workers work for up to 10 hours per day, if there is a written agreement either with a labor union organized by a majority of the workers at the workplace concerned where such a labor union exists or with a person representing a majority of the workers where no such labor union exists.

2. In the event that an employer has a worker work pursuant to the provisions of the preceding paragraph, the employer shall notify the worker in advance of the working hours for each day of the work week pursuant to the provisions of Ordinance of the Ministry of Health, Labor and Welfare.

3. The provisions of paragraph 2 of Article 32-2 shall apply mutatis mutandis to an agreement under paragraph 1 of this Article.

(Overtime Work, etc., at Times of Temporary Necessity as a Result of Disasters, etc.)

**Article 33.** In the event of temporary necessity by reason of disaster or other unavoidable reasons, an employer may extend the working hours stipulated in Articles 32 through 32-5 and Article 40, and may have workers work on rest days stipulated in Article 35 with the permission of the administrative office within the limits of such necessity; provided, however, that in the event that the



necessity is so urgent that there is not time enough to obtain the permission of the administrative office, the employer shall report this after the fact without delay.

2. In the case where there has been a report pursuant to the proviso of the preceding paragraph, if the administrative office determines that it was inappropriate to extend the working hours or have work on rest days, thereafter that office may order the employer to provide the workers with rest periods or rest days corresponding to the time worked.

3. Regardless of the provisions of paragraph 1, in the event of temporary necessity for purposes of public service, the working hours stipulated in Articles 32 through 32-5 and Article 40 may be extended for national and local public officers engaged in enterprises at public agencies (excluding enterprises stipulated in Annexed Table No. 1), and those workers may be required to work on rest days under Article 35.

**(Rest Periods)**

**Article 34.** An employer shall provide rest periods during working hours of at least 45 minutes in the event that working hours exceed 6 hours and of at least one hour in the event that working hours exceed 8 hours.

2. The rest periods set forth in the preceding paragraph shall be provided to all workers at the same time; provided, however, that this shall not apply if there is a written agreement either with a labor union organized by a majority of the workers at the workplace concerned where such a labor union exists or with a person representing a majority of the workers where no such labor union exists.

3. An employer shall permit the free use of rest periods set forth in paragraph 1.

(Rest Days)

**Article 35.** An employer shall provide workers at least one rest day per week.

2. The provisions of the preceding paragraph shall not apply to an employer who provides at least 4 rest days during a four-week period.

(Overtime Work and Work on Rest Days)

**Article 36.** In the event that the employer has entered a written agreement either with a labor union organized by a majority of the workers at the workplace concerned where such a labor union exists or with a person representing a majority of the workers where no such labor union exists and has notified such agreement to the administrative office, the employer may, pursuant to the provisions of such agreement, and regardless of the provisions of Articles 32 through 32-5 and Article 40 with regard to working hours (hereinafter in this Article referred to as “working hours”) and the provisions of the preceding Article with regard to rest days (hereinafter in this paragraph referred to as “rest days”), extend the working hours or have workers work on rest days; provided, however, that the extension in working hours for belowground labor and other work specified by Ordinance of the Ministry of Health, Labor and Welfare as especially harmful to health shall not exceed 2 hours per day.

2. The Minister of Health, Labor and Welfare may, in order to ensure that the extension of working hours be appropriate, prescribe standards for the limits on the

extension of working hours set forth in the agreement stipulated in the preceding paragraph, and other necessary matters, taking into consideration the welfare of workers, the trends of overtime work, and any other circumstances.

3. The employer and the labor union or the person representing a majority of the workers who conclude the agreement stipulated in paragraph 1, when setting an extension of working hours in the said agreement, shall ensure that the particulars of the said agreement conform with the standards stipulated in the preceding paragraph.

4. With regard to the standards stipulated in paragraph 2, the administrative office may provide the necessary advice and guidance to the employer and the labor union or the person representing a majority of the workers who conclude the agreement stipulated in paragraph 1.

(Increased Wages for Overtime Work, Work on Rest Days and Night Work)

**Article 37.** In the event that an employer extends working hours or has a worker work on rest days pursuant to the provisions of Article 33 or paragraph 1 of the preceding Article, the employer shall pay increased wages for work during such hours or on such days at a rate no lower than the rate stipulated by Cabinet Order within the range of no less than 25 percent and no more than 50 percent over the normal wage per working hour or working day.

2. The Cabinet Order set forth in the preceding paragraph shall be set taking into consideration the welfare of workers, the trends of overtime work and of work on rest

days, and any other relevant factors.

3. In the event that an employer has a worker work during the period between 10 p.m. and 5 a.m. (or the period between 11 p.m. and 6 a.m., in case the Minister of Health, Labor and Welfare admits necessity of application for a certain area or time of the year), the employer shall pay increased wages for work during such hours at a rate no lower than 25 percent over the normal wage per working hour.

4. Family allowances, commutation allowances, and other elements of wages as stipulated by Ordinance of the Ministry of Health, Labor and Welfare shall not be included in the base wages of the increased wages set forth in paragraph 1 and the preceding paragraph.

(Calculation of Working Hour)

**Article 38.** For purposes of application of the provisions on working hours, total hours worked shall be aggregated, even if workplaces are different.

2. With regard to belowground labor, the working hours shall be deemed to be the time from entry into the mouth of the mine to exit from the mouth of the mine, including rest periods; provided, however, that in this case the provisions of Article 34, paragraphs 2 and 3, regarding rest periods shall not apply.

**Article 38-2.** In cases where workers perform their duties outside of the workplace during all or part of their working hours and it would be difficult to calculate working hours, the number of hours worked shall be deemed to be the prescribed working hours; provided, however, that in cases where it would normally be necessary to work in

excess of the prescribed working hours in order to accomplish the duties, the number of hours worked shall be deemed to be the number of hours normally necessary to accomplish such duties as stipulated by Ordinance of the Ministry of Health, Labor and Welfare.

2. In a case referred to in the proviso of the preceding paragraph, when there is a written agreement either with a labor union organized by a majority of the workers at the workplace concerned where such a labor union exists or with a person representing a majority of the workers where no such labor union exists, the number of hours specified in such agreement shall be deemed to be the number of hours normally necessary to accomplish the duties under that proviso.

3. The employer shall notify the agreement referred to in the preceding paragraph to the administrative office pursuant to the provisions of Ordinance of the Ministry of Health, Labor and Welfare.

**Article 38-3.** When, in the case where an employer has, pursuant to a written agreement prescribing the matters listed as follows with, where there is a labor union comprised of a majority of the workers at the workplace concerned, the labor union or, where there is no labor union comprised of a majority of the workers, a person representing a majority of the workers at the workplace, assigned a worker to the duties listed in item 1, the said worker shall be deemed to have worked the hours stipulated in item 2, pursuant to the provisions of Ordinance of the Ministry of Health, Labor and Welfare.

(1) those duties which are assigned to a worker

(hereinafter in this Article “applicable duties”) of those prescribed by Ordinance of the Ministry of Health, Labor and Welfare as duties for which it is difficult for the employer to give concrete directives regarding such decisions as the means of execution and the allocation of time, due to the necessity, owing to the nature of the duties, of leaving the methods of execution largely to the discretion of the workers engaged in the said duties;

- (2) the hours calculated as the hours worked of a worker engaged in covered duties;
- (3) that the employer will not give concrete directives to the worker engaged in the said covered duties in relation to such decisions as the means of execution and the allocation of time;
- (4) that the employer will devise measures pursuant to the provisions of the said agreement in order to secure the worker’s health and welfare as appropriate for the circumstances of the working hours of the said worker engaged in covered duties;
- (5) that the employer will take measures pursuant to the provisions of the said agreement in relation to the handling of complaints from the worker engaged in covered duties;
- (6) matters prescribed by Ordinance of the Ministry of Health, Labor and Welfare in addition to what is listed in the preceding items.

2. The provisions of paragraph 3 of the preceding Article shall apply mutatis mutandis to an agreement set forth in the preceding paragraph.

**Article 38-4.** Where a committee (limited to committees comprising employer and representatives of workers at the workplace) is established at a workplace with the aim of studying and deliberating on wages, working hours and other matters concerning working conditions at the workplace concerned and of stating its opinions regarding the said matters to the business operator, and the said committee reaches a decision by a majority of four fifths or more regarding the following matters and the employer notifies the administrative office of the said decision pursuant to the provisions of Ordinance of the Ministry of Health, Labor and Welfare, if the employer has a worker, who comes under the scope of workers stipulated in item 2, perform the duties stipulated in item 1 at the workplace concerned, the said worker shall be deemed to have worked the hours stipulated in item 3 pursuant to the provisions of Ordinance of the Ministry of Health, Labor and Welfare.

- (1) Duties of planning, drafting, researching and analyzing matters regarding business operations for which the employer does not give concrete directives regarding such decisions as the means of accomplishment and the allocation of time, since the nature of these duties is such that the methods for their proper accomplishment must be left largely to the discretion of the workers (hereinafter referred to as “applicable duties” in this Article);
- (2) Scope of workers possessing the knowledge and experience etc. necessary to accomplish the applicable duties properly, and who are deemed to have worked the hours stipulated by the said decision when

engaged in the said applicable duties;

- (3) Hours calculated as working hours of workers who are engaged in the applicable duties and who fall under the scope of workers stipulated in the preceding item;
- (4) Employers shall take measures as prescribed in the said decision to secure the health and welfare of workers, who are engaged in applicable duties and who fall under the scope of the workers stipulated in item 2, according to the working hours of the said workers;
- (5) Employers shall take measures as prescribed in the said decision to deal with complaints from workers who are engaged in applicable duties and who fall under the scope of workers listed in item 2;
- (6) When having workers who fall under the scope of the workers stipulated in Item 2 perform applicable duties as prescribed in this paragraph, employers shall obtain the consent of the said workers with regard to the fact that they will be deemed to have worked the hours stipulated in item 3, and shall not dismiss or treat in any other disadvantageous manner a worker who does not give the said consent;
- (7) Other matters in addition to what is listed in the preceding items as prescribed by Ordinance of the Ministry of Health, Labor and Welfare.

2. The committee set forth in the preceding paragraph shall conform to the following items:

- (1) One half of the members of the said committee was appointed for a set term of office pursuant to the provisions of Ordinance of the Ministry of Health,



Labor and Welfare by a labor union organized by a majority of the workers at the workplace concerned where such a union exists, or by a person representing a majority of the workers where no such union exists;

- (2) Minutes of the proceedings of the said committee were taken and maintained pursuant to the provisions of Ordinance of the Ministry of Health, Labor and Welfare, and were made known to the workers at the workplace concerned;
- (3) Other requirements in addition to what is listed in the preceding two items, as prescribed by Ordinance of the Ministry of Health, Labor and Welfare.

3. The Minister of Health, Labor and Welfare, in order to ensure appropriate working conditions for workers engaged in applicable duties, and after hearing the opinions of the Labor Policy Council, shall set and publicize guidelines with regard to matters listed in each item of paragraph 1 and to other matters decided upon by the committee stipulated in the said paragraph.

4. An employer who has given notification as prescribed in paragraph 1 shall, pursuant to the provisions of Ordinance of the Ministry of Health, Labor and Welfare, regularly report to the administrative office the state of implementation of the measures stipulated in item 4 of the said paragraph.

5. With regard to the application of the provisions of paragraph 1 of Article 32-2, Article 32-3, paragraphs 1 through 3 of Article 32-4, paragraph 1 of Article 32-5, the proviso to paragraph 2 of Article 34, Article 36, paragraph 2 of Article 38-2, paragraph 1 of the preceding Article, and

paragraph 5 and the proviso to paragraph 6 of the following Article, in the event that the committee stipulated in paragraph 1 makes a decision by a majority of four fifths or more regarding matters stipulated in paragraph 1 of Article 32-2, Article 32-3, paragraphs 1 and 2 of Article 32-4, paragraph 1 of Article 32-5, the proviso to paragraph 2 of Article 34, paragraph 1 of Article 36, paragraph 2 of Article 38-2, paragraph 1 of the preceding Article, and paragraph 5 and the proviso to paragraph 6 of the following Article, the term “agreement with a labor union organized by a majority of the workers at the workplace concerned where such a union exists, or with a person representing a majority of the workers where no such union exists” as used in paragraph 1 of Article 32-2 shall be deemed to be replaced with “agreement with a labor union organized by a majority of the workers at the workplace concerned where such a union exists, or with a person representing a majority of the workers where no such union exists, or a decision of the committee stipulated in paragraph 1 of Article 38-4 (hereinafter referred to as ‘decision’ except in paragraph 1 of Article 106) ”, the term “written agreement” as used in Article 32-3, paragraphs 1 through 3 of Article 32-4, paragraph 1 of Article 32-5, the proviso to paragraph 2 of Article 34, paragraph 2 of Article 38-2, paragraph 1 of the preceding Article, and paragraph 5 and the proviso to paragraph 6 of the following Article shall be respectively deemed to be replaced with “decision or written agreement”, the term “that agreement” as used in paragraph 1 of Article 32-4 and paragraph 2 of Article 36 shall be deemed to be replaced with “that decision or agreement”, the term “such

agreement” as used in paragraph 2 of Article 38-2 shall be deemed to be replaced with “such decision or agreement”, the term “with the consent of either a labor union organized by a majority of the workers at the workplace concerned where such a labor union exists or a person representing a majority of the workers at a workplace where no such labor union exists” as used in paragraph 2 of Article 32-4 shall be deemed to be replaced with “with the consent of either a labor union organized by a majority of the workers at the workplace concerned where such a labor union exists or a person representing a majority of the workers at a workplace where no such labor union exists, or based on a decision”, the terms “notified such agreement to the administrative office” and “pursuant to the provisions of such agreement” as used in paragraph 1 of Article 36 shall be read respectively as “notified such agreement or decision to the administrative office” and “pursuant to the provisions of such agreement or decision”, the terms “or the person representing a majority of the workers who conclude the agreement stipulated in paragraph 1” and “the said agreement” as used in paragraph 3 of Article 36 shall be deemed respectively to be replaced with “or the person representing a majority of the workers who conclude the agreement stipulated in paragraph 1, or the committee members making the decision stipulated in the said paragraph, ” and “the said agreement or decision”, and the term “or the person representing a majority of the workers who conclude the agreement stipulated in paragraph 1” as used in paragraph 4 of Article 36 shall be deemed to be replaced with “or the person representing a majority of the

workers who conclude the agreement stipulated in paragraph 1, or the committee members making the decision stipulated in the said paragraph”.

**(Annual Paid Leave)**

**Article 39.** An employer shall grant annual paid leave of 10 working days, either consecutive or divided into portions, to workers who have been employed continuously for 6 months calculated from the day of their being hired and who have reported for work on at least 80 percent of the total working days.

2. With regard to workers who have been employed continuously for at least one year and a half, an employer shall grant annual paid leave, calculated by adding to the number of days set forth in the preceding paragraph, the number of work days listed in the lower row of the following table corresponding to the number of years of continuous service from the day of their having served continuously for 6 months (hereinafter referred to as “6 months completion day”) in the upper row of the table for each additional year of continuous service from the 6 months completion day; provided, however, that for workers who have reported for work on less than 80 percent of the total working days for the one-year period ending with the day before the first day of each one-year period from the 6 months completion day (when the final period is less than one year, the period concerned), the employer shall not be required to grant paid leave for the one year following the said first day.

3. The number of days of annual paid leave for workers specified in the following items (excluding workers whose prescribed weekly working hours exceed the hours specified by Ordinance of the Ministry of Health, Labor and Welfare) shall be based on the number of days of annual paid leave specified in the two preceding paragraphs, but, notwithstanding the provisions of those two paragraphs, shall be specified by Ordinance of the Ministry of Health, Labor and Welfare with due consideration for the ratio of the number of days specified by Ordinance of the Ministry of Health, Labor and Welfare as the prescribed working days in a week for ordinary workers (referred to as “the prescribed weekly working days of ordinary workers” in item 1) to either the number of prescribed weekly working days for the workers concerned or the average number of prescribed working days per week for the workers concerned:

- (1) Workers for whom the number of prescribed weekly working days is less than the number of days specified by Ordinance of the Ministry of Health, Labor and Welfare as constituting a number that is considerably lower than the number of prescribed weekly working days of ordinary employees;

Number of years of continuous service from the six months completion day	One year	Two years	Three years	Four years	Five years	Six years or more
Work days	One day	Two days	Four days	Six days	Eight days	Ten days

(2) With regard to workers for whom the number of prescribed working days is calculated on the basis of units of time other than weeks, those workers for whom the number of prescribed annual working days is less than the number of days specified by Ordinance of the Ministry of Health, Labor and Welfare, with due consideration of the number of prescribed annual working days for workers for whom the number of prescribed weekly working days is deemed to be greater by one than the number specified by Ordinance of the Ministry of Health, Labor and Welfare referred to in the preceding item and to other circumstances.

4. The employer shall grant the paid leave under the provisions of the three preceding paragraphs during the period requested by the worker; provided, however, when the granting of leave in the requested period would interfere with the normal operation of the enterprise, the employer may grant the leave during another period.

5. In the event that an employer, pursuant to a written agreement either with a labor union organized by a majority of the workers at the workplace concerned where such a labor union exists or with a person representing a majority of the workers where no such labor union exists, has made a stipulation with regard to the period in which paid leave pursuant to paragraphs 1 through 3 will be granted, the employer may, notwithstanding the provisions of the preceding paragraph, grant paid leave pursuant to such stipulation for portions of paid leave under paragraphs 1 through 3 exceeding 5 days.

6. For the period of paid leave under the provisions of

paragraphs 1 through 3, the employer shall, pursuant to rules of employment or the equivalent, pay either the average wage or the amount of wages that would normally be paid for working the prescribed working hours; provided, however, that when there is a written agreement either with a labor union organized by a majority of the workers at the workplace concerned where such a labor union exists or with a person representing a majority of the workers where no such labor union exists, that provides for the payment for the period of a sum equivalent to the daily amount of standard remuneration provided for under paragraph 1 of Article 99 of the Health Insurance Act (Act No. 70 of 1922), such agreement shall be complied with.

7. With regard to the application of the provisions of paragraph 1 and paragraph 2, a worker shall be deemed to have reported for work during periods of absence from work for medical treatment for injuries or illness suffered in the course of duties, during periods of absence from work for child care leave prescribed in item 1 of Article 2 of the Act Concerning the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care and Family Care Leave or for family care leave prescribed in item 2 of the said Article, and during periods of absence from work for women before and after childbirth pursuant to the provisions of Article 65.

(Special Provisions on Working Hours and Rest)

**Article 40.** With regard to enterprises other than those listed in items 1 through 3, item 6 and item 7 of Annexed Table No. 1, as to which there is a need in order to avoid public inconvenience or other special need, and within

limits unavoidable given such needs, special provisions may be established by Ordinance of the Ministry of Health, Labor and Welfare regarding working hours under Articles 32 through 32-5 and rest periods under Article 34.

2. The special provisions under the preceding paragraph shall conform closely to the standards set forth in this Act and shall not be detrimental to the health and welfare of workers.

(Exclusions from Application of Provisions on Working Hours, etc.)

**Article 41.** The provisions regarding working hours, rest periods and rest days set forth in this Chapter, Chapter VI and Chapter VI-II shall not apply to workers falling under one of the following items:

- (1) Persons engaged in enterprises listed in item 6 (excluding forestry) or item 7 of Annexed Table No. 1;
- (2) Persons in positions of supervision or management or persons handling confidential matters, regardless of the type of enterprise;
- (3) Persons engaged in keeping watch or in intermittent labor, with regard to which the employer has obtained approval from the administrative office.



## CHAPTER V

### SAFETY AND HEALTH

**Article 42.** Matters concerning the safety and health of workers shall be as provided for by the Industrial Safety and Health Act (Act No. 57 of 1972).

**Articles 43 to 55.** Deleted.

## CHAPTER VI

### JUVENILES

(Minimum Age)

**Article 56.** An employer shall not employ children until the first 31<sup>st</sup> of March following their having fully reached the age of 15 years.

2. Notwithstanding the provisions of the preceding paragraph, outside of school hours, children above 13 full years of age maybe employed in occupations in enterprises other than those listed in items 1 through 5 of Annexed Table No. 1, and which involve light labor that is not harmful to the health and welfare of the children, with the permission of the administrative office. The same shall apply to children under 13 full years of age employed in motion picture production and theatrical performance enterprises.

(Certificates for Juveniles)

**Article 57.** The employer shall keep at the workplace birth certificates which prove the age of children under 18 full years of age.

2. With regard to a child employed pursuant to paragraph 2 of the preceding Article, the employer shall keep at the workplace a certificate issued by the head of that child's school certifying that the employment does not hinder the school attendance of the child and written consent from the child's parent or guardian.

(Labor Contracts of Minors)

**Article 58.** The parent or guardian shall not make a labor contract in place of a minor.

2. The parent, guardian, or the administrative office may cancel a contract prospectively if they consider it disadvantageous to the minor.

**Article 59.** The minor may request wages independently. The parent or guardian shall not receive the wages earned by the minor in place of the minor.

(Working Hours and Rest Days)

**Article 60.** The provisions of Articles 32-2 through Article 32-5, Article 36 and Article 40 shall not apply to juveniles under 18 full years of age.

2. With regard to the application of the provisions of Article 32 to children employed pursuant to paragraph 2 of Article 56, the term “40 hours a week” as used in paragraph 1 of Article 32 shall be deemed to be replaced with “40 hours a week including school hours”, and the term “8 hours a day” as used in paragraph 2 of Article 32 shall be deemed to be replaced with “7 hours a day including school hours”.

3. Notwithstanding the provisions of Article 32, with regard to juveniles above 15 full years of age and under 18 full years of age, until they fully reach the age of 18 years of age (excluding the period until the first 31<sup>st</sup> of March following their having fully reached the age of 15 years) they may be employed pursuant to the following provisions:

(1) In the event that the total working hours in a week does not exceed the number of working hours stipulated in paragraph 1 of Article 32, and the number of working hours for one day of the week has been reduced to no more than 4 hours, the working hours for the other

days may be extended to 10 hours;

- (2) In the event that the weekly working hours to be stipulated by Ordinance of the Ministry of Health, Labor and Welfare do not exceed 48 hours and the daily working hours do not exceed 8 hours, an employer may have such workers work pursuant to the provisions of Article 32-2, Article 32-4 and Article 32-4-2.

(Night Work)

**Article 61.** An employer shall not employ a person under 18 full years of age between 10 p.m. and 5 a.m.; provided, however, that this shall not apply to males over 16 full years of age employed on the shift system.

2. When the Minister of Health, Labor and Welfare finds it necessary, the Minister may change the hours set forth in the preceding paragraph to 11 p.m. and 6 a.m., limited to a certain region or period.

3. With regard to work that is done in shifts, with the permission of the administrative office, an employer may have workers work until 10:30 p.m., regardless of the provisions of paragraph 1, or may have workers work from 5:30 a.m., regardless of the provisions of the preceding paragraph.

4. The provisions set forth in the preceding three paragraphs shall not apply in the event that the employer extends the working hours nor has workers work on rest days pursuant to the provisions of paragraph 1 of Article 33, nor to enterprises listed in item 6, item 7 or item 13 of Annexed Table No. 1, or to the duties of telephone operation.

5. With regard to children employed pursuant to the

provisions of paragraph 2 of Article 56, the hours set forth in paragraph 1 shall become 8 p.m. and 5 a.m., and the hours set forth in paragraph 2 shall become 9 p.m. and 6 a.m.

**(Restrictions on Dangerous and Harmful Jobs)**

**Article 62.** An employer shall not allow persons under 18 full years of age to clean, oil, inspect, repair the dangerous parts of any machinery or power-transmission apparatus while in operation, to put on or take off the driving belts or ropes of any machinery or power-transmission apparatus while in operation, to operate a crane driven by poker, to engage in any other dangerous work as specified by Ordinance of the Ministry of Health, Labor and Welfare, or to handle heavy materials as specified by Ordinance of the Ministry of Health, Labor and Welfare.

2. An employer shall not employ persons under 18 full years of age in work involving the handling of poisons, powerful drugs or other injurious substances, or explosive, combustible or inflammable substances, in places where dust, power, harmful gas, or radiation is generated or places of high temperatures and pressures, or other places which are dangerous or injurious to safety, health, or welfare.

3. The scope of the work prescribed in the preceding paragraph shall be provided for by Ordinance of the Ministry of Health, Labor and Welfare.

**(Ban on Belowground Labor)**

**Article 63.** An employer shall not have persons under 18 full years of age work belowground.

**(Travel Expenses for Returning Home)**

**Article 64.** In the event that a worker under 18 full

years of age returns home within 14 days after dismissal, the employer shall bear the necessary travel expenses; provided, however, that this shall not apply to a worker under 18 full years of age if such worker was dismissed for reasons attributable to that worker and the employer has obtained acknowledgment of such reasons by the administrative office.

## CHAPTER VI-II

### WOMEN

#### (Ban on Belowground Labor)

**Article 64-2.** An employer shall not have women over 18 full years of age work belowground; provided, however, that this shall not apply to those engaged in work specified by Ordinance of the Ministry of Health, Labor and Welfare which is performed belowground due to temporary necessity (excluding those specified by Ordinance of the Ministry of Health, Labor and Welfare as expectant and nursing mothers, as provided in paragraph 1 of the following Article).

#### (Limitations on Dangerous and Injurious Work for Expectant and Nursing Mothers)

**Article 64-3.** An employer shall not employ pregnant women or women within one year after childbirth (hereinafter referred to as “expectant and nursing mothers”) in the handling of heavy materials, work in places where harmful gas is generated, or other work harmful to pregnancy, childbirth, nursing, etc.

2. With regard to work harmful to the functions involved in pregnancy and childbirth, the provisions of the preceding paragraph may be applied mutatis mutandis by Ordinance of the Ministry of Health, Labor and Welfare to women other than expectant and nursing mothers.

3. The scope of work prescribed in the preceding two paragraphs and the scope of persons who shall not be

employed in such work shall be specified by Ordinance of the Ministry of Health, Labor and Welfare.

(Before and After Childbirth)

**Article 65.** In the event that a woman who is expected to give birth within 6 weeks (or within 14 weeks in the case of multiple fetuses) requests absence from work, the employer shall not make such a person work.

2. An employer shall not have a woman work within 8 weeks after childbirth; provided, however, that this shall not prevent an employer from having such a woman work, if she has so requested, after 6 weeks have passed since childbirth, in duties which a doctor has approved as having no adverse effect on her.

3. In the event that a pregnant woman has so requested, an employer shall transfer her to other light duties.

**Article 66.** Regardless of the provisions of paragraph 1 of Article 32-2, paragraph 1 of Article 32-4, and paragraph 1 of Article 32-5, an employer shall not have an expectant or nursing mother work weekly working hours in excess of those stipulated in paragraph 1 of Article 32, or daily working hours in excess of those stipulated in paragraph 2 of the same Article, if so requested by the expectant or nursing mother.

2. Notwithstanding the provisions of Article 33, paragraphs 1 and 3, and of Article 36, in the event that an expectant or nursing mother has requested, an employer shall not have her work overtime nor work on rest days.

3. In the event that an expectant or nursing mother has so requested, an employer shall not have her work at



night.

(Time for Childcare)

**Article 67.** A woman raising an infant under the age of one full year may request time to care for the infant of at least 30 minutes twice a day, in addition to the rest periods stipulated in Article 34.

2. The employer shall not have the said woman work during the childcare time set forth in the preceding paragraph.

(Measures for Women for Whom Work During Menstrual Periods Would Be Especially Difficult)

**Article 68.** When a woman for whose work during menstrual periods would be especially difficult has requested leave, the employer shall not have the said woman work on days of the menstrual period.

## CHAPTER VII

### TRAINING OF SKILLED LABORERS

#### (Elimination of Evils of Apprenticeship)

**Article 69.** An employer shall not exploit an apprentice, student, trainee, or other worker, by whatever name such person may be called, by reason of the fact that such person is seeking to acquire a skill.

2. An employer shall not employ a worker, who is seeking to acquire a skill, in domestic work or other work having no relation to acquisition of a skill.

#### (Special Provisions Regarding Vocational Training)

**Article 70.** With regard to workers receiving vocational training who have received recognition as provided for by paragraph 1 of Article 24 of the Vocational Ability Development and Promotion Act (Act No. 64 of 1969) (including cases where the same provisions are applied mutatis mutandis to paragraph 2 of Article 27-2 of that Act), when there is a necessity, the provisions of Article 14 paragraph 1 concerning contract period, the provisions of Articles 62 and 64-3 concerning restrictions on dangerous and harmful jobs for juveniles and expectant and nursing mothers and others, and the provisions of Articles 63 and 64-2 concerning the ban on belowground labor by juveniles and women may be otherwise provided for by Ordinance of the Ministry of Health, Labor and Welfare within the limits of the necessity; provided, however, that with regard to the ban on belowground labor by juveniles under Article 63, this

shall not apply to persons under 16 full years of age.

**Article 71.** An Ordinance of the Ministry of Health, Labor and Welfare issued based on the provisions of the preceding Article shall not apply to workers other than those employed by an employer who has obtained permission from the administrative office for employment of such workers in conformity with the said Ordinance of the Ministry of Health, Labor and Welfare.

**Article 72.** With regard to the application of the provisions of Article 39 to minors who are subject to the application of Ordinance of the Ministry of Health, Labor and Welfare pursuant to the provisions of Article 70, the term “10 working days” in paragraph 1 of Article 39 shall be deemed to be replaced with “12 working days”, and the term “10 days” in the “6 years or more” column of the table as used in paragraph 2 of the said Article shall be deemed to be replaced with “8 days”.

**Article 73.** In the event that an employer, who has received permission pursuant to Article 71, violates an Ordinance of the Ministry of Health, Labor and Welfare issued pursuant to Article 70, the administrative office may rescind such permission.

**Article 74.** Deleted.

## CHAPTER VIII

### ACCIDENT COMPENSATION

#### (Medical Compensation)

**Article 75.** In the event that a worker suffers an injury or illness in the course of duties, the employer shall furnish necessary medical treatment at his expense or shall bear the expense for necessary medical treatment.

2. The scope of illness in the course of duties and of medical treatment prescribed in the preceding paragraph shall be prescribed by Ordinance of the Ministry of Health, Labor and Welfare.

#### (Compensation for Absence from Work)

**Article 76.** In the event that a worker does not receive wages because the worker is unable to work by reason of the medical treatment pursuant to the provision of the preceding paragraph, the employer shall provide compensation for absence from work at the rate of 60 percent of the worker's average wage.

2. In the event that the average per capita monthly amount of ordinary wages payable in the period of January through March, April through June, July through September, or October through December, respectively (any such period hereinafter referred to as a "quarter"), for the prescribed number of working hours for a worker at the same workplace and engaged in the same type of work as the worker receiving compensation for absence from work under the preceding paragraph (or, for a workplace

ordinarily employing less than 100 workers, the average monthly amount during the quarter per worker of compensation paid every month in the industry to which that workplace belongs, under the Monthly Labor Survey compiled by the Ministry of Health, Labor and Welfare; hereinafter referred to as the average compensation amount) shall exceed 120 percent of the average compensation amount during the quarter in which the worker in question suffered the injury or illness or shall fall below 80 percent of that same amount, the employer shall adjust the amount of compensation for absence from work which is payable to the worker in question with such rate of increase or decrease in the second quarter following the quarter in which the average compensation amount so exceeded or fell below the original amount; and the employer shall make compensation for absence from work in such revised amount from the first month of the quarter in which such adjustment takes effect. Thereafter, adjustment to the previously adjusted amount of compensation for absence from work shall be dealt with in the same manner.

3. Necessary matters regarding the method of adjustment and other particulars of the provisions of the preceding paragraph, where it would be difficult to follow those provisions, shall be prescribed by Ordinance of the Ministry of Health, Labor and Welfare.

(Disability Compensation)

**Article 77.** With regard to a worker who has suffered an injury or illness in the course of duties and who remains physically disabled after recovery, the employer shall, in accordance with the degree of such disability, provide

compensation for the disability in the amount determined by multiplying the average wage by the number of days set forth in Annexed Table No. 2.

(Exceptions to Compensation for Absence from Work and to Disability Compensation)

**Article 78.** In the event that a worker suffered injury or illness in the course of duties as a result of gross negligence, and the employer has received acknowledgment of such negligence from the administrative office, the employer is not obligated to pay compensation for absence from work or compensation for disabilities.

(Compensation for Bereaved Family)

**Article 79.** In the event that a worker has died in the course of duties, the employer shall pay compensation to the bereaved family in the amount of the average wage for 1,000 days.

(Funeral Expenses)

**Article 80.** In the event that a worker has died in the course of duties, the employer shall pay the equivalent of the average wage for 60 days as funeral expenses to the person handling the funeral rites.

(Compensation for Discontinuance)

**Article 81.** In the event that a worker receiving compensation pursuant to the provisions of Article 75 fails to recover from the injury or illness within 3 years from the date of commencement of medical treatment, the employer may pay compensation for discontinuance, equivalent to the average wage for 1,200 days; thereafter, the employer shall not be obligated to pay compensation pursuant to the provisions of this Act.

**(Payment of Compensation in Installments)**

**Article 82.** In the event that an employer demonstrates an ability to pay and receives the consent of the person entitled to compensation, the employer may pay annual compensation over a six-year period in the amount derived by multiplying the average wage by the number of days set forth in Annexed Table No. 3 in place of the compensation stipulated in Article 77 or Article 79.

**(Right to Receive Compensation)**

**Article 83.** The right to receive compensation shall not be affected by the resignation of the worker.

2. The right to receive compensation shall not be transferred or placed under attachment.

**(Relation to Other Acts)**

**Article 84.** In the event that payments equivalent to accident compensation provided in this Act are to be made under the Industrial Accident Compensation Insurance Act (Act No. 50 of 1947) or under some other Act as designated by Ordinance of the Ministry of Health, Labor and Welfare, for matters that would give rise to accident compensation under the provisions of this Act, the employer shall be exempt from the responsibility of making compensation prescribed in this Act.

2. In the event that an employer has paid compensation under this Act, the employer shall be exempt, up to the amount of such payments, from responsibility for damages under the Civil Code based on the same grounds.

**(Examination and Arbitration)**

**Article 85.** Persons who have objections concerning the acknowledgment of injury, illness, or death in the course

of duties; the method of medical treatment; the determination of the amount of compensation; or other matters pertaining to the compensation, may apply to the administrative office for examination or arbitration of such matters.

2. The administrative office, when it deems necessary, may examine or arbitrate matters on its own authority.

3. When a civil action has been filed with respect to a matter on which an application for examination or arbitration pursuant to the provision of paragraph 1 has been made, or with respect to a matter on which the administrative office has commenced an examination or arbitration pursuant to the provision of the preceding paragraph, the administrative office shall not conduct an examination or arbitration with respect to the matter in question.

4. The administrative office, when it deems this necessary for purposes of the examination or arbitration, may have a physician perform a diagnosis or examination.

5. With regard to interruption of a period of prescription, an application for examination or arbitration provided in paragraph 1 and/or the commencement of examination or arbitration provided in paragraph 2 shall be deemed to be a judicial demand.

**Article 86.** A person having a complaint about the results of examination or arbitration pursuant to the provisions of the preceding Article may apply for examination or arbitration to a Industrial Accident Compensation Insurance Referee.

2. The provisions of paragraph 3 of the preceding



Article shall apply mutatis mutandis to an application for examination or arbitration pursuant to the provisions of the preceding paragraph.

(Exceptions for Subcontracting Enterprises)

**Article 87.** For matters performed by undertakings designated by Ordinance of the Ministry of Health, Labor and Welfare pursuant to a series of contracts, the prime contractor shall be deemed the employer with respect to accident compensation.

2. In a case referred to in the preceding paragraph in which the prime contractor has by written contract had a subcontractor assume responsibility for the compensation, the subcontractor shall also be regarded as the employer; provided, however, that two or more subcontractors may not each be required to assume responsibility for compensation with respect to the same undertaking.

3. In a case referred to in the preceding paragraph in which the prime contractor has received a request for compensation, the prime contractor may request that a demand for compensation first be made to the subcontractor that has assumed responsibility for compensation; provided, however, that this shall not apply in the event that the subcontractor has been declared decision of commencement of bankruptcy proceedings or has disappeared.

(Details Regarding Compensation)

**Article 88.** In addition to what is set forth in this Chapter, details regarding compensation shall be prescribed by Ordinance of the Ministry of Health, Labor and Welfare.

## CHAPTER IX

### RULES OF EMPLOYMENT

#### (Responsibility for Drawing up and Notification)

**Article 89.** An employer who continuously employs 10 or more workers shall draw up rules of employment covering the following matters and shall notify those rules of employment to the administrative office. In the event that the employer alters the following matters, the same shall apply:

- (1) Matters pertaining to the times at which work begins and at which work ends, rest periods, rest days, leaves, and matters pertaining to the change in shifts when workers are employed in two or more shifts;
- (2) Matters pertaining to the methods for determination, calculation and payment of wages (excluding special wages, etc.; hereinafter the same shall apply in this item); the dates for closing accounts for wages and for payment of wages; and increases in wages;
- (3) Matters pertaining to retirement (including grounds for dismissal);
- (3-2) In the event that there are stipulations for retirement allowances, matters pertaining to the scope of workers covered; methods for determination, calculation, and payment of retirement allowances; and the dates for payment of retirement allowances;
- (4) In the event that there are stipulations for special wages, etc. (but excluding retirement allowances)

and/or minimum wage amounts, matters pertaining to such items;

- (5) In the event that there are stipulations for having workers bear the cost of food, supplies for work, and other such expenses, matters pertaining to such items;
- (6) In the event that there are stipulations concerning safety and health, matters pertaining to such items;
- (7) In the event that there are stipulations concerning vocational training, matters pertaining to such items;
- (8) In the event that there are stipulations concerning accident compensation and/or support for injury or illness outside the course of employment, matters pertaining to such items;
- (9) In the event that there are stipulations concerning commendations and/or sanctions, matters pertaining to their kinds and limits;
- (10) In the event that there are stipulations applicable to all workers at the workplace concerned on matters in addition to what is listed in the preceding items, matters pertaining to such other items.

(Procedures for Drawing Up)

**Article 90.** In drawing up or changing the rules of employment, the employer shall ask the opinion of either a labor union organized by a majority of the workers at the workplace concerned where such a labor union exists, or a person representing a majority of the workers where no such labor union exists.

2. In submitting the rules of employment pursuant to the provisions of the preceding Article, the employer shall attach a document setting forth the opinion stipulated in

the preceding paragraph.

(Restrictions on Sanction Provisions)

**Article 91.** In the event that the rules of employment provide for a decrease in wages as a sanction to a worker, the amount of decrease for a single occasion shall not exceed 50 percent of the daily average wage, and also the total amount of decrease shall not exceed 10 percent of the total wages for a single pay period.

(Relation to Acts and Regulations and to Collective Agreements)

**Article 92.** The rules of employment shall not infringe any acts and regulations or any collective agreement applicable to the workplace concerned.

2. The administrative office may order the revision of rules of employment which conflict with acts and regulations or with collective agreements.

(Validity)

**Article 93.** Labor contracts which stipulate working conditions inferior to the standards established by the rules of employment shall be invalid with respect to such portions. In such a case the portions which have become invalid shall be governed by the standards established by the rules of employment.

## CHAPTER X

### DORMITORIES

#### (Autonomy of Dormitory Life)

**Article 94.** An employer shall not infringe upon the freedom of the personal lives of workers living in dormitories attached to the enterprise.

2. An employer shall not interfere in the selection of dormitory leaders, room leaders, and other leaders necessary for the autonomy of dormitory life.

#### (Order in Dormitory Life)

**Article 95.** An employer who has workers live in dormitories attached to the enterprise shall draw up dormitory rules with regard to the following matters and shall submit such rules to the administrative office. In the event that the employer alters these rules, the same shall apply:

- (1) Matters pertaining to rising, going to bed, going out, and staying out overnight;
- (2) Matters pertaining to regular events;
- (3) Matters pertaining to meals;
- (4) Matters pertaining to safety and health;
- (5) Matters pertaining to the management of the buildings and facilities.

2. With regard to the drafting and/or alteration of provisions concerning items 1 through 4 of the preceding paragraph, the employer shall obtain the consent of a person representing a majority of the workers living in the

dormitory.

3. In submitting the rules pursuant to the provision of the paragraph 1, the employer shall attach a document establishing the consent referred to in the preceding paragraph.

4. The employer and the workers living in the dormitory shall observe the dormitory rules.

(Dormitory Facilities and Safety and Health)

**Article 96.** With regard to a dormitory attached to the enterprise, an employer shall take necessary measures for ventilation, lighting, illumination, heating, damp-proofing, cleanliness, emergency escape, maximum accommodation, and sleeping facilities, and such other measures as are necessary for preservation of the health, morals and life of the workers.

2. Standards for measures to be taken by employers pursuant to the provision of the preceding paragraph shall be prescribed by Ordinance of the Ministry of Health, Labor and Welfare.

(Administrative Action for Supervision)

**Article 96-2.** In the event that an employer seeks to establish, move, or alter a dormitory attached to an enterprise that continuously employs 10 or more workers or a dormitory attached to an enterprise that is dangerous or harmful to health as stipulated by Ordinance of the Ministry of Health, Labor and Welfare, the employer shall submit to the administrative office plans that have been established in accordance with standards concerning the prevention of danger and injury and other matters, as set forth in Ordinance of the Ministry of Health, Labor and

**Welfare issued pursuant to the provisions of the preceding Article, no later than 14 days prior to the start of construction.**

**2. The administrative office may suspend the start of construction or order the alteration of the plans when it deems necessary for the safety and health of the workers.**

**Article 96-3. In the event that a dormitory attached to an enterprise employing workers is in violation of standards established with regard to safety and health, the administrative office may order the employer to suspend use of all or part of the dormitory or to alter all or part of the dormitory, and may make orders on other necessary matters to the employer.**

**2. In the case referred to in the preceding paragraph, the administrative office may make orders to the workers on necessary matters in connection with the matters on which it has made orders to the employer.**

# CHAPTER XI

## INSPECTION BODIES

(Staff Members of Inspection Bodies, etc.)

**Article 97.** Labor Standards Inspectors and other necessary staff members prescribed by Ordinance of the Ministry of Health, Labor and Welfare may be appointed in the Labor Standards Management Bureau (i.e., an internal bureau established within the Ministry of Health, Labor and Welfare with administrative responsibility for matters relating to labor conditions and the protection of workers; hereinafter the same shall apply), Prefectural Labor Offices and Labor Standards Inspection Offices.

2. The Director-General of the Labor Standards Management Bureau (hereinafter referred to as the "Director-General of the Labor Standards Management Bureau"), the directors of Prefectural Labor Offices and the directors of Labor Standards Inspection Offices shall be appointed from among Labor Standards Inspectors.

3. Matters relating to the qualifications and appointment and dismissal of Labor Standards Inspectors shall be prescribed by Cabinet Order.

4. A Labor Standards Inspector Dismissal Investigative Council may be established pursuant to the provisions of Cabinet Order in the Ministry of Health, Labor and Welfare.

5. The consent of the Labor Standards Inspector Dismissal Investigative Council is required for the dismissal



of a Labor Standards Inspector.

6. In addition to the provisions of the above two paragraphs, necessary matters relating to the structure and operation of the Labor Standards Inspector Dismissal Investigative Council shall be prescribed by Cabinet Order.

**Article 98.** Deleted

(Authority of Director-General of the Labor Standards Management Bureau)

**Article 99.** The Director-General of the Labor Standards Management Bureau, under the direction and supervision of the Minister of Health, Labor and Welfare, shall direct and supervise the directors of the Prefectural Labor Offices; shall administer matters concerning the establishment, revision or abolition of acts and regulations concerning labor standards, matters concerning the appointment, dismissal and training of labor standards inspectors, matters concerning the establishment and adjustment of regulations concerning inspection methods, matters concerning the preparation of an annual report on inspection, matters concerning the Labor Policy Council and Labor Standards Inspector Dismissal Investigative Council (With regard to matters relating to the Labor Policy Council, limited to those relating to labor conditions and the protection of workers.), and other matters relating to the enforcement of this Act; and shall direct and supervise staff members who belong to the Bureau.

2. The directors of the Prefectural Labor Offices, under the direction and supervision of the Director-General of the Labor Standards Management Bureau, shall direct and supervise the directors of the Labor Standards

Inspection Offices within their jurisdiction; shall administer matters concerning the adjustment of inspection methods and other matters relating to the enforcement of this Act; and shall direct and supervise staff members who belong to their Offices.

3. The directors of the Labor Standards Inspection Offices, under the direction and supervision of the director of the Prefectural Labor Office, shall administer inspections, examination, approvals, acknowledgments, investigations, arbitration, and other matters relating to the implementation of this Act, and shall direct and supervise staff members who belong to their Offices.

4. The Director-General of the Labor Standards Management Bureau and the directors of Prefectural Labor Offices may themselves exercise powers of subordinate offices or may have labor standards inspectors belonging to their offices exercise such powers.

(Authority of Director-General of the Women's Management Bureau)

**Article 100.** The Director-General of the Women's Management Bureau (the director of an internal bureau, within the Ministry of Health, Labor and Welfare, responsible for matters relating to Labor issues associated with the special characteristics of women workers; hereinafter the same definition shall apply) of the Ministry of Health, Labor and Welfare, under the direction and supervision of the Minister of Health, Labor and Welfare, shall administer matters relating to the establishment, revision, abolition and interpretation of special provisions in this Act relating to women, and, with regard to matters

concerning the enforcement thereof, shall advise the Director-General of the Labor Standards Management Bureau and directors of offices subordinate to that Bureau and shall assist in the direction and supervision of those subordinate offices by the Director-General of the Labor Standards Management Bureau.

2. The Director-General of the Women's Management Bureau, personally or through officials of that Bureau designated by the Director-General, may read or have read documents concerning inspections and other matters performed by the Labor Standards Management Bureau and offices subordinate to that Bureau in matters relating to women.

3. The provisions of Articles 101 and 105 shall apply mutatis mutandis to investigations performed by the Director-General of the Women's Management Bureau or by designated officials belonging to that Bureau, with regard to the enforcement of special provisions of this Act relating to women.

(Authority of Labor Standards Inspectors)

**Article 101.** Labor standards inspectors are authorized to inspect workplaces, dormitories, and other associated buildings; to demand the production of books and records; and to conduct examination of employers and workers.

2. In the case referred to in the preceding paragraph, labor standards inspectors shall carry identification card proving their status.

**Article 102.** With regard to a violation of this Act, labor standards inspectors shall exercise the duties of

judicial police officers prescribed in the Code of Criminal Procedure.

**Article 103.** In the event that a dormitory of an enterprise that employs workers is in violation of standards established with regard to safety and health and there is imminent danger to workers, a labor standards inspector may immediately exercise the powers of the administrative office pursuant to the provisions of Article 96-3.

(Report to Inspection Body)

**Article 104.** In the event that a violation of this Act or of an order issued pursuant to this Act exists at a workplace, a worker may report such fact to the administrative office or to a labor standards inspector.

2. An employer shall not dismiss a worker or shall not give a worker other disadvantageous treatment by reason of such worker's having made a report set forth in the preceding paragraph.

(Reports etc.)

**Article 104-2.** The administrative office may, when it finds it necessary to enforce this act, have an employer or a worker submit a report on the necessary matters or may order an employer or a worker to appear pursuant to the provision of Ordinance of the Ministry of Health, Labor and Welfare.

2. A labor standards inspector may, when he/she finds it necessary to enforce this act, have an employer or a worker submit a report on the necessary matters or order an employer or a worker to appear.

(Duties of Labor Standards Inspectors)

**Article 105.** A labor standards inspector shall not

**reveal secrets learned in the course of duties. The same shall apply even after the labor standards inspector has retired from office.**

## CHAPTER XII

### MISCELLANEOUS PROVISIONS

(Assistance Obligation of the State)

**Article 105-2.** In order to attain the objectives of this Act, the Minister of Health, Labor and Welfare and the directors of the Prefectural Labor Offices shall provide workers and employers with data and other necessary assistance.

(Dissemination of Acts and Regulations)

**Article 106.** The employer shall make known to the workers the gist of this Act and orders issued under this Act, the rules of employment, the agreements stipulated in paragraph 2 of Article 18, the proviso to paragraph 1 of Article 24, paragraph 1 of Article 32-2, Article 32-3, paragraph 1 of Article 32-4, paragraph 1 of Article 32-5, the proviso to paragraph 2 of Article 34, paragraph 1 of Article 36, paragraph 2 of Article 38-2, paragraph 1 of Article 38-3, and paragraph 5 and the proviso to paragraph 6 of Article 39, and the decisions stipulated in paragraphs 1 and 5 of Article 38-4, by displaying or posting them at all times in a conspicuous location or locations in the workplace, by delivering written copies, or by other methods as prescribed by Ordinance of the Ministry of Health, Labor and Welfare.

2. The employer shall make known to the workers living in a dormitory the provisions of this Act and orders issued under this Act relating to dormitories and the dormitory rules, by displaying or posting them in a

conspicuous location or locations in the dormitory, or by other methods.

**(Roster of Workers)**

**Article 107.** The employer shall prepare a roster of workers for each workplace with respect to each worker (excluding day laborers) and shall enter the worker's name, date of birth, personal history, and other matters as prescribed by Ordinance of the Ministry of Health, Labor and Welfare.

2. In the event of a change in any of the matters entered pursuant to the provisions of the preceding paragraph, the employer shall make a revision without delay.

**(Wage Ledger)**

**Article 108.** The employer shall prepare a wage ledger for each workplace and shall enter the facts upon which wage calculations are based, the amount of wages, and other matters as prescribed by Ordinance of the Ministry of Health, Labor and Welfare without delay each time wage payments are made.

**(Preservation of Records)**

**Article 109.** The employer shall keep the rosters of workers, wage ledgers and important documents concerning hiring, dismissal, accident compensation, wages, and other matters of labor relations for a period of 3 years.

**Article 110.** Deleted.

**(Free Certificate)**

**Article 111.** A worker or a person seeking to become a worker may request a certificate of his or her family register free of charge from the person responsible for family

registers or a deputy thereof. The same shall apply in the event that an employer requests a certificate of the family register of a worker or a person seeking to become a worker.

(Application to the State and Public Organizations)

**Article 112.** This Act and orders issued under this Act shall be deemed to apply to the state, prefectures, cities, towns and villages, and other equivalent bodies.

(Establishment of Orders)

**Article 113.** Orders issued under this Act shall be established after hearing the opinions of representatives of workers, representatives of employers, and representatives of the public interest on the draft of those orders at a public hearing.

(Payment of Additional Amounts)

**Article 114.** A court, pursuant to the request of a worker, may order an employer who has violated the provisions of Articles 20, 26 or 37, or an employer who has not paid wages in accordance with the provisions of Article 39, paragraph 6, to pay, in addition to the unpaid portion of the amount that the employer was required to pay under those provisions, an additional payment of that identical amount; provided, however, that such a request shall be made within two years from the date of the violation.

(Prescription)

**Article 115.** Claims for wages (excluding retirement allowances), accident compensation and other claims under the provisions of this Act shall lapse by prescription if not made within two years; and claims for retirement allowances under the provisions of this Act shall lapse by prescription if not made within 5 years.



**(Transitional Measures)**

**Article 115-2.** When an order pursuant to this Act is established, revised or abolished, necessary transitional measures (including transitional measures on penal provisions) in connection with such establishment, revision or abolition may be stipulated by such order, within limits rationally deemed to be necessary.

**(Exclusion from Application)**

**Article 116.** With the exception of the provisions of Articles 1 through 11, paragraph 2 below, Articles 117 through 119, and Article 121, this Act shall not apply to mariners stipulated in paragraph 1 of Article 1 of the Mariners Act (Act No. 100 of 1947).

2. This Act shall not apply to businesses which employ only relatives living together nor to domestic workers.

## CHAPTER XIII

### PENAL PROVISIONS

**Article 117.** A person who has violated the provisions of Article 5 shall be punished by imprisonment with work of not less than one year and not more than 10 years, or by a fine of not less than 200,000 yen and not more than 3,000,000 yen.

**Article 118.** A person who has violated the provisions of Article 6, Article 56, Article 63 or Article 64-2 shall be punished by imprisonment with work of not more than one year or by a fine of not more than 500,000 yen.

2. A person who has violated an Ordinance of the Ministry of Health, Labor and Welfare issued under the provisions of Article 70 (but limited to those portions of such ordinance related to Article 63 or Article 64-2) shall be governed by the same rules as the preceding paragraph.

**Article 119.** A person who falls under any of the following items shall be punished by imprisonment with work of not more than 6 months or by a fine of not more than 300,000 yen:

- (1) A person who has violated the provisions of Article 3, Article 4, Article 7, Article 16, Article 17, paragraph 1 of Article 18, Article 19, Article 20, paragraph 4 of Article 22, Article 32, Article 34, Article 35, the proviso to paragraph 1 of Article 36, Article 37, Article 39, Article 61, Article 62, Articles 64-3 through 67, Article 72, Articles 75 through 77, Article 79, Article 80,

paragraph 2 of Article 94, Article 96, or paragraph 2 of Article 104;

- (2) A person who has violated an order pursuant to the provisions of paragraph 2 of Article 33, paragraph 2 of Article 96-2, or paragraph 1 of Article 96-3;
- (3) A person who has violated an Ordinance of the Minister of Health, Labor and Welfare issued under the provisions of Article 40;
- (4) A person who has violated an Ordinance of the Ministry of Health, Labor and Welfare issued under the provisions of Article 70 (but limited to those portions of such ordinance related to the provisions of Article 62 or Article 64-3).

**Article 120.** A person who falls under any of the following items shall be punished by a fine of not more than 300,000 yen:

- (1) A person who has violated the provisions of Article 14, paragraph 1 or 3 of Article 15, paragraph 7 of Article 18, paragraphs 1 through 3 of Article 22, Articles 23 through 27, paragraph 2 of Article 32-2 (including a case where the same provisions are applied mutatis mutandis under paragraph 4 of Article 32-4 and paragraph 3 of Article 32-5), paragraph 2 of Article 32-5, the proviso to paragraph 1 of Article 33, paragraph 3 of Article 38-2 (including a case where the same provisions are applied mutatis mutandis under paragraph 2 of Article 38-3), Articles 57 through 59, Article 64, Article 68, Article 89, paragraph 1 of Article 90, Article 91, paragraph 1 or 2 of Article 95, paragraph 1 of Article 96-2, Article 105 (including a case where

the same provisions are applied mutatis mutandis under paragraph 3 of Article 100), or Articles 106 through 109;

- (2) A person who has violated an Ordinance of the Ministry of Health, Labor and Welfare issued under the provisions of Article 70 (but limited to those portions of such ordinance related to the provisions of Article 14);
- (3) A person who has violated an order under the provisions of paragraph 2 of Article 92, or Article paragraph 2 of 96-3;
- (4) A person who has refused, impeded or recused an inspection by a labor standards inspector or by the Director-General of the Women's Management Bureau or an official of that Bureau designated by the Director-General based on the provisions of Article 101 (including a case where the same provisions are applied mutatis mutandis pursuant to paragraph 3 of Article 100), a person who has not replied or has made false statements in response to examination by a labor standards inspector or by the Director-General of the Women's Management Bureau or an official of that Bureau designated by the Director-General, or a person who has not submitted books and records or has submitted books and records containing false entries to a labor standards inspector or to the Director-General of the Women's Management Bureau or an official of that Bureau designated by the Director-General;
- (5) A person who has not made a report, has submitted a

false report, or has not appeared pursuant to the provisions of Article 104-2.

**Article 121.** In the event that a person who has violated this Act is an agent or other employee acting on behalf of the business operator, with regard to matters concerning workers at that enterprise, the fine under the relevant Article shall also be assessed against the business operator; provided, however, that this shall not apply in the event that the business operator has taken necessary measures to prevent such violation. (In the event that the business operator is a juridical person, the representative thereof shall be deemed business operator; and in the event that the business operator is a minor or an adult ward who lacks the legal capacity regarding business of an adult, the legal representative thereof shall be deemed business operator (if the legal representative is a juridical person, the representative thereof). The same shall apply in the following paragraph.)

2. In the event that the business operator knew of the plan for the violation but did not take necessary measures to prevent it, knew of the violation and did not take necessary measures to correct it, or incited the violation, the business operator shall also be punished as the violator.

## **SUPPLEMENTARY PROVISIONS (Excerpts)**

**Article 122.** The date of enforcement of this Act shall be prescribed by Imperial Ordinance.

**Article 131.** In respect of the application of the

provisions of paragraph 1 of Article 32 regarding undertakings of a scale not larger than the scale stipulated by order or undertakings of a type stipulated by order (except when replaced and applied pursuant to the provisions of paragraph 2 of Article 60), the term "40 hours" as used in paragraph 1 of Article 32 shall be deemed to be replaced, until March 31, 1997 with "the hours to be stipulated by order within the range of more than 40 hours but not more than 44 hours".

2. The order under paragraph 1 of Article 32 as replaced and applied pursuant to the provisions of the preceding paragraph shall be prescribed taking into consideration the welfare of workers, trends of working hour, and any other circumstances.

3. In the event that the order under paragraph 1 of Article 32, as replaced and applied pursuant to the provisions of paragraph 1 of this Article, is established or amended, with regard to undertakings smaller than a certain size or to certain types of undertakings, transitional measures (including transitional measures concerning penalties), limited to a certain period of time, may be provided for by the said order so that the provisions in operation before the establishment or the amendment of the said order remain applicable.

4. The Minister of Health, Labor and Welfare, when planning to establish or amend the order under paragraph 1 of Article 32 as rephrased and applied pursuant to the provisions of paragraph 1 of this Article, shall seek the opinion of the Central Labor Standards Investigative Council.

**Article 132.** In respect of the application of the provisions of paragraph 1 of Article 32-4 regarding the undertakings stipulated in paragraph 1 of the preceding Article during the period in which the provisions of paragraph 1 of the preceding Article are applied, the term "In the event that the employer has stipulated the following matters pursuant" shall be deemed to be replaced with "Pursuant"; the term " notwithstanding the provisions of Article 32, the employer" shall be deemed to be replaced with "the employer"; the words "pursuant to the said written agreement" shall be deemed to be replaced with "pursuant to the following matters and the said written agreement"; the term "does not exceed 40" shall be deemed to be replaced with "does not exceed 40 hours (in respect of undertakings not exceeding the scale stipulated by order, the number of hours stipulated by order shall be within the range of more than 40 hours and not more than 42 hours), and if it has been stipulated that when the employer has workers work for more than the said hours the employer shall pay increased wages for work during the excess hours pursuant to the provisions of Article 37 (except for hours in respect of which the provisions of paragraph 1 of Article 37 are applied), the average working hours per week during the said period does not exceed the working hours set forth in paragraph 1 of Article 32, notwithstanding the provisions of Article 32."; and the following sentence shall be added to paragraph 1 of Article 32-4 "In this case, if the employer has workers work for more than 40 hours per week on average in the said period (in respect of undertakings not exceeding the scale stipulated by order in the preceding sentence of

**this paragraph, for more than the number of hours stipulated by the said order), the employer shall pay increased wages for work during the excess hours pursuant to the provisions of Article 37 (except for hours in respect of which the provisions of paragraph 1 of Article 37 are applied)."; and the term "40 hours" as used in item 2 of paragraph 1 of Article 32-4 shall be deemed to be replaced with "the working hours stipulated in paragraph 1 of Article 32".**

**2. In respect of the application of the provisions of paragraph 1 of Article 32-5 regarding the undertakings stipulated in paragraph 1 of the preceding Article during the period in which the provisions of paragraph 1 of the preceding Article are applied, the term "if there is a written agreement " as used in paragraph 1 of Article 32-5 shall be deemed to be replaced with "if it has been stipulated that the weekly working hours shall not exceed 40 hours (in respect of undertakings not exceeding the scale stipulated by order, the number of hours stipulated by order shall be within the range of more than 40 hours and not more than 42 hours), and it has been stipulated that when the employer has workers work for more than the said hours, the employer shall pay increased wages for work during the excess hours pursuant to the provisions of Article 37 (except for hours in respect of which the provisions of paragraph 1 of Article 37 are applied) by virtue of a written agreement"; and the term "10 hours per day" as used in the same paragraph shall be deemed to be replaced with "10 hours per day, provided that the working hours per week do not exceed the working hours stipulated in Article 32, paragraph 1"; and the following sentence shall be added to**



paragraph 1 of Article 32-5 "In this case, if the employer has workers work for more than 40 hours per week in the said period (in respect of undertakings not exceeding the scale stipulated by order in the preceding sentence of this paragraph, for more than the number of hours stipulated by the said order), the employer shall pay increased wages for work during the excess hours in accordance with the provisions of Article 37 (except for hours in respect of which the provisions of paragraph 1 of Article 37 are applied)."

3. The provisions of paragraph 4 of the preceding Article shall be applied *mutatis mutandis* to the order enacted under paragraph 1 of Article 32-4 and paragraph 1 of Article 32-5 (only the part which was replaced pursuant to the provisions of paragraph 2 of this Article), as replaced pursuant to the provisions of the two preceding paragraphs.

**Article 133.** The Minister of Health, Labor and Welfare, when prescribing the standards stipulated in paragraph 2 of Article 36, in view of the fact that the provisions of paragraphs 1 and 2 of Article 64-2 no longer apply after April 1, 1999 to women workers over 18 full years of age who do not correspond to those persons specified by Ordinance of the Ministry of Health, Labor and Welfare as stipulated in paragraph 4 of Article 64-2 before its amendment pursuant to the provisions of Article 4 of the Act Concerning the Establishment of Acts Relating to the Ministry of Labor for Guaranteeing Equal Opportunity and Treatment Between Men and Women in Employment (Act No. 92 of 1997), shall take into consideration the effect that the pronounced change in the working life of the said workers who raise children or provide care to family

members (limited to those stipulated by Ordinance of the Ministry of Health, Labor and Welfare; hereinafter referred to as “specified workers” in this Article) will have on the family life, and set shorter standards for limits on the extension of working hours set forth in the agreement stipulated in paragraph 1 of Article 36 relating to specified workers (limited to those who request the employer to reduce the amount of overtime work they carry out) than the standards for limits on the extension of working hours set forth in the agreement stipulated in the said paragraph relating to workers other than the said specified workers, regarding the period stipulated by Ordinance of the Ministry of Health, Labor and Welfare. In this case, the standards for limits on the extension of working hours for one year shall not exceed 150 hours.

**Article 134.** With regard to the application of the provisions of Article 39 to undertakings which regularly employ 300 or less workers, the term “10 working days” as used in paragraph 1 of Article 39 shall be deemed to be replaced with “6 working days” until March 31, 1991 and with “8 working days” from April 1, 1991 to March 31, 1994.

**Article 135.** With regard to the application of the provisions of Article 39 regarding workers for whom the day, following the day on which the number of years of continuous service from the 6 months completion day

Four years	Five years	Six years	Seven years	Eight years
Six days	Eight days	Ten days	Ten days	Ten days
Five days	Six days	Seven days	Eight days	Nine days

reaches between 4 and 8 years, falls in the period from April 1, 1999 to March 31, 2000, regarding the period until the said day, the wording in the middle row of the following table, which is contained in the table in paragraph 2 of the said Article, shall be read as the wording in the bottom row of the following table, corresponding to the number of years of continuous service from the 6 months completion day in the top row of the table.

2. With regard to the application of the provisions of Article 39 regarding workers for whom the day, following the day on which the number of years of continuous service from the 6 months completion day reaches between 5 and 7 years, falls in the period from April 1, 2000 to March 31, 2001, regarding the period from April 1, 2000 to March 31, 2001, the wording in the middle row of the following table, which is contained in the table in paragraph 2 of the said Article, shall be read as the wording in the bottom row of the following table, corresponding to the number of years of continuous service from the 6 months completion day in the top row of the table.

Five years	Six years	Seven years
Eight days	Ten days	Ten days
Seven days	Eight days	Nine days

3. The provisions of the preceding two paragraphs shall not apply to minors stipulated in Article 72.

**Article 136.** The employer shall not treat in a disadvantageously, such as by making a deduction from wages, workers who have taken leave with pay pursuant to

the provisions of paragraphs 1 to 3 of Article 39.

**Article 137.** A worker who has entered a labor contract (excluding workers prescribed in the items of Article 14 paragraph 1) for a definite period (excluding those prescribing a fixed period necessary for the completion of a specified undertaking and limited to those of a duration exceeding one year), may, until the measures provided for in Article 3 of the Supplementary Provisions of the Act to Partially Amend the Labor Standards Act (Act No. 104 of 2003) are established, notwithstanding the provisions of Article 628 of the Civil Code, resign at any time on or after the day on which one year has elapsed since the first day of the period of the said labor contract, by giving notice to the employer.