Working Environment and Changes to Korean Labor Law in 2019

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I. Working environment

The current Moon Jae-in government, since his inauguration on May 10, 2017, has been pushing labor-friendly policies, reflected in the increased minimum wage, shortened working hours, additional vacation time and holidays, expanded coverage of industrial accident insurance, greater protection for vulnerable workers, and stronger labor supervision. Previous Korean regimes and administrations pursued growth policies that maximized corporate profits through low wages and long working hours. On the other hand, this administration is moving toward more balanced development, restricting growth-oriented policy and promoting fair distribution. While such worker-friendly policies have been criticized as deteriorating the business environment and productivity, they are expected to continue during the rest of Mr. Moon's term.

The first major labor-friendly policy is the dramatic increase in minimum wage. The minimum hourly wage in 2017 was KRW 6,470, KRW 7,530 in 2018 and KRW 8,350 in 2019 – representing an increase of 29% in two years. If this increase is converted to a monthly rate based on 40 hours per week, the monthly minimum wage was KRW 1,352,230 in 2017, KRW 1,573,770 in 2018 and KRW 1,745,150 in 2019. In other words, there has been a KRW 392,920 increase in monthly minimum wage in two years. Workers receiving minimum wage have greatly benefited. On the other hand, many small and medium-sized employers have had to close down due to the higher labor costs while others have survived the harsh competition by reducing the number of workers or automating their service operations and adopting other methods to reduce labor costs.

In terms of working hours, the 52-hour workweek has been introduced and settled. By introducing the concept of one week referring to 7 days (including weekly holiday), the maximum weekly working hours were reduced from 68 to 52. In annual leave regulations, the number of days for employees working less than two years was limited to 15 over that two-year period. The related law was amended to allow for additional 11 off-days in the first year, and 15 days in the second. In addition, national holidays (currently 15) were introduced as statutory holidays.

Other working conditions that have been improved: (i) accidents occurring during the commute between home and work are now recognized as occupational industrial accidents; (ii) a workplace harassment prevention law was also introduced, which requires employers to have self-correcting rules in place to deal with workplace harassment; (iii) the employer's ultimate responsibility for sexual harassment in the workplace has been strengthened to better protect victims; (iv) to protect workers with disabilities and promote their employment, mandatory education on raising awareness in the workplace of persons with disabilities was

introduced to workplaces employing 50 or more people; a variety of allowances were increased, such as unemployment benefits and maternity allowance, while others were introduced.

Of particular note is that the Ministry of Employment and Labor has strengthened labor audits by hiring more than 500 labor inspectors in 2018. Labor inspectors used to audit workplaces to prevent violations of labor standards, but now correct violations by charging fines for non-compliance with the Labor Standards Act (LSA).

II. Increase to Minimum Wage

According to the current minimum wage system in Korea, a single minimum wage is applied at all workplaces, without distinction as to the industry or region, and all employers are obligated to pay at least the minimum wage. Employers can pay more than the minimum wage, and parts of employment contracts that stipulate a wage lower than the minimum wage shall be invalid, with the difference to be paid additionally. Employers shall be punished for violations with imprisonment of up to three years or a fine not exceeding KRW 20 million (Articles 6 and 28 of the Minimum Wage Act).

<Table 1> 「Minimum Wage 」

(Unit: KRW)

Division \ Year	Jan 1 ~ Dec 31, 2016	Jan 1 ~ Dec 31, 2017	Jan 1 ~ Dec 31, 2018	**Jan 1 ~ Dec 31, 2019**
Hourly wage	KRW 6,030	KRW 6,470	KRW 7,530	KRW **8,350**
Daily wage (8 hours)	KRW 48,240	KRW 51,760	KRW 60,240	KRW **66,800**
Converted to monthly wage (209 hours)	KRW 1,260,270	KRW 1,352,230	KRW 1,573,770	KRW **1,745,150**
Probationary employee (max. 3 months)	KRW 5,427 (hourly) KRW 1,134,243 (monthly)	KRW 5,823 (hourly) KRW 1,217,007 (monthly)	KRW 6,777 (hourly) KRW 1,416,393 (monthly)	KRW **7,515** (hourly) KRW **1,570,635** (monthly)

☞ 10% decrease for probationary workers, max. 3 months <Only for workers who have entered into an employment contract of one year or more>

☞ 40 contractual working hours per week (209 hours per month including 8 hours of paid weekly leave)

III. Reduced Working Hours, Increased Number of Holidays & Leave Days

In 2016, Korean workers worked 2,052 hours and were exposed to labor for long periods of time, resulting in low productivity and more industrial accidents. The industries where

"special" working hours and recess time are allowed were defined so broadly that unlimited overtime was *de facto* permitted, and lower courts have rendered different judgments regarding additional overtime pay. Government policy on government holidays was discriminatory in that the right to rest applied to government workers and public institutions, but not to small businesses. Therefore, it was necessary to reduce working hours, resolve social disputes, and ensure workers' right to rest. [1]

1. Up to 52 hours per week, including overtime and holiday work

There has been confusion as to what makes "one week". It used to be based on 5 or 6 days, with the weekly holiday excluded. Therefore, there were 40 working hours plus up to 12 hours overtime, and then 8 hours of holiday work or 16 hours over 2 holidays could be added, which could total 68 hours a week. However, on March 20, 2018, Article 2 of the Labor Standards Act was amended to include the definition that "one week refers to seven days including holidays." Due to this, the maximum working hours per week is now 52 hours including holidays. [2] Employers shall be punished for violation with imprisonment of not more than 2 years or a fine of not more than KRW 20 million (Article 110 of the LSA, Penal Provisions)

Article 2 (Definition)
(1) Terms used in this Act are defined as follows
7. The term "one week" refers to seven consecutive days including holidays.

Before revision	After revision
Max working hours per week: **68** * 68 hrs = 40 hrs + 12 hrs + 16 hrs (if there are 2 holiday days)	Max working hours per week: **52** * 52 hrs = 40 hrs + 12 hrs

2. Coordination of working hours for workers under 18 (from Jul. 1, 2018)

The term "minor" refers to a worker who is between 15 and 17 years of age. Working hours for minors cannot exceed 7 hours per day and 35 hours per week. However, if agreed between the parties, they may be extended 1 hour per day and 5 hours per week. That is, a minor can work up to 8 hours a day and 40 hours a week. Employers shall be punished for violations with imprisonment of not more than 2 years or a fine of not more than KRW 20

[1] Ministry of Labor and Employment, 「Explanations of the Revised Labor Standards Act」, May 2018
[2] **Enforced in phases by size of business**
① With regard to businesses that employ 300 people or more: Jul. 1, 2018
② With regard to businesses that employ 50 to fewer than 300 people: Jan. 1, 2020
③ With regard to businesses that employ 5 to fewer than 50 people: Jul. 1, 2021

million (Article 110 of the LSA, Penal Provisions).

Article 69 (Working Hours) Working hours of a person aged between 15 and 17 shall not exceed seven hours per day and thirty five hours per week. However, the working hours may be extended by up to one hour per day, or five hours per week, upon agreement between the parties concerned. [Enforcement Date Jul.1,2018]

Before revision	After revision
Max working hours per week-: 46 * 46 hrs = 40 hrs + 6 hrs	Max working hours per week-: 40 hrs * 40 hrs = 35 hrs + 5 hrs
(example) If a worker works 5 hrs on Saturday, after working 7 hrs a day from Monday to Friday (35 hrs), then 5 hrs is not equivalent to extended work. (* Saturday = unpaid holiday)	(example) If a worker works 5 hrs on Saturday, after working 7 hrs a day from Monday to Friday (35 hrs), the employer must pay 50% more for extended work.

3. Holiday work allowance (Mar. 20, 2018)

150% of the ordinary wage shall be paid for up to eight hours of holiday work, and 200% shall be paid for hours of holiday work over eight hours. When overtime work and holiday work overlap, it was very confusing to calculate. However, it is meaningful that this amendment clarifies what to do with such overlap. Employers shall be punished for violations with imprisonment of not more than 3 years or a fine of not more than KRW 30 million (Article 109 of the LSA, Penal Provisions).

Article 56 (Extended Work, Night Work and Holiday Work)

(1) Employers shall pay an additional 50 percent or more of the ordinary wages for extended work (work during the hours as extended pursuant to the provisions of Articles 53 and 59, and the proviso of Article 69).

(2) Notwithstanding paragraph (1), with regards to holiday work employers shall pay additionally according to the following subparagraphs:

1. Holiday work of 8 hours or less: 50 percent of the ordinary wage
2. Holiday work beyond 8 hours: one hundred percent of the ordinary wage

(3) Employers shall pay an additional 50 percent of the ordinary wage for night work (work between 10 P.M. and 6 A.M.)

4. Reduced number of businesses classified as special cases from 26 to 5 (Jul. 1, 2018); at least 11 consecutive hours guaranteed as rest for special cases

It was possible for workers in the 26 categories of "special" jobs to exceed the limits of working hours and miss out on their resting hours, but revision of the Labor Standards Act has reduced the industries categorized as "special" to five: 4 transportations and healthcare. Therefore, all other workers can only work a maximum of 12 hours overtime per week. Even for workers in these special jobs, the employer shall provide at least 11 consecutive hours of rest between a worker's shifts. Employers shall be punished for violations with imprisonment of not more than 2 years or a fine of not more than KRW 20 million (Article 110 of the LSA, Penal Provisions) [3]

Article 59 (Special Provisions on Working and Recess Hours)

(1) With regards to businesses for whom at least one of the following subparagraphs apply, employers may extend work hours beyond twelve hours or change recess hours which are respectively set by Article 53 paragraph (1) and Article 54. The following subparagraphs come from the divisions and sections of the Standard Classifications of Industry declared by the Minister of Statistics according to Article 22 paragraph (1) of the Statistics Act.

1. Land transport and pipeline transport: Provided, that route passage transport businesses as determined in Article 3 paragraph (1) subparagraph 1 of the Passenger Transport Service Act are excluded.

2. Maritime transport; 3. Air transport; 4. Other transport-related businesses;

5. Healthcare

(2) With regards to Article 1, employers shall provide at least 11 consecutive hours of rest for workers at the end of the day before the next work day begins.

Before revision	After revision
① Transportation, sale of goods and storage, finance and insurance; ② Movie production and entertainment, communications, educational study and research, advertisement; ③ Medical and sanitation, hotels and restaurants, incineration and cleaning, barber and beauty parlors: and	1. Land transport and pipeline transport: Provided, that route passage transport businesses as determined in Article 3 paragraph (1) subparagraph 1 of the Passenger Transport Service Act are excluded. 2. Maritime transport; 3. Air transport; 4. Other transport-related businesses; 5. Healthcare

[3] **Enforced in phases by size of business**

① With regard to businesses that employ 300 people or more: Jul. 1, 2019

② With regard to businesses that employ 50 to fewer than 300 people: Jan. 1, 2020

③ With regard to businesses that employ 5 to fewer than 50 people: Jul. 1, 2021

< Working hours of industries in excluded from the special provision(300 ↑)>

before Jul. 1 2018	Jul. 1 2018 ~ Jun. 30 2019	after Jul. 1 2019
Virtually unlimited	Up to 68 hours	Up to 52 hours

④ Social welfare businesses	

5. Public holidays redefined as statutory holidays (enforced in phases by size of business from 2020)

Public holidays are contractual holidays. Current statutory holidays are the weekly holiday (Article 55 of the LSA) and Labor Day (May 1). In general, public holidays for government offices can be recognized as holidays only if the company accepts them as paid holidays through their rules of employment. For this reason, in some SMEs, 15 days of public holidays have been replaced with 15 days of annual paid leave, but it has been difficult to conclude that this constitutes violation of the Labor Standards Act. However, since public holidays have been redefined as statutory holidays, companies are required to recognize them as additional compulsory paid holidays.[4]

Article 55 (Holidays)
(2) Employers shall provide paid holidays for holidays declared by Presidential Decree: Provided, that the holidays can be shifted to other working days upon written agreement with the workers' representative.

Enforcement Ordinance Article 30 (Weekly Holiday)
The paid holiday prescribed in Article 55 of the Act shall be granted to persons with perfect attendance for the contractual working days during a period of one week.

□ The mandatory use of public holidays and alternative holidays as paid holidays (±15 days)

<table>
<tr><td rowspan="2">Public holidays</td><td colspan="2">·Sunday → Excluded from the Enforcement Decree to the Labor Standards Act</td></tr>
<tr><td>· March 1st Independence Movement Day, National Foundation Day, Hangeul Day, New Year's Day, Memorial Day
· Lunar New Year's Day</td><td>15 days</td></tr>
<tr><td colspan="2">· Election day and other temporary holidays (temporary holidays) under the Public Official Election Act</td></tr>
<tr><td>Replaced holidays</td><td colspan="2">If the Lunar New Year's holidays and Children's Day include a Sunday or other holiday, the following non-operational holidays will be designated (including Saturdays for Children's Day).</td></tr>
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6. Revision of annual leave

[4] **Enforcement date :** 3 stages divided by size over 2 years
① Businesses that employ 300 people or more: Jan. 1, 2020
② Businesses that employ 30 to fewer than 300 people: Jan. 1, 2021
③ Businesses that employ 5 to fewer than 30 people: Jul. 1, 2022

Since the guaranteed paid leave for employees working less than two years is insufficient (15 days granted for the entire two-year period), Article 60 paragraph (3) of the Labor Standards Act was deleted in an amendment of the LSA to provide additional paid leave days. It now guarantees 11 annual paid leave days for the first year for employees working for less than two years. Thus, a total of 26 paid days are granted over that two-year period: 11 days in the first year and 15 days in the second. Therefore, in calculation of annual leave by fiscal year, an additional 11 days shall be added, to maintain the annual management system.

Periods of childcare leave used to be excluded from calculation of annual paid leave. However, to better protect employed mothers returning from childcare leave, this has changed.

Article 60 (Annual Paid Leave)

(1) Employers shall grant 15 days' paid leave to workers who have registered not less than 80 percent of attendance during one year.

(2) Employers shall grant one day's paid leave per month to workers whose consecutive service period is shorter than one year or whose attendance is less than 80 percent, if the worker has offered work without absence throughout a month.

(3) Deleted.

(6) In applying paragraphs (1) through (3), a period falling under any of the following subparagraphs shall be considered a period of attendance:

1. A period during which a worker is unable to work due to occupational injury or disease; and
2. A period during which a pregnant woman does not work on leave taken pursuant to paragraphs (1) through (3) of Article 74;
3. A period during which a worker does not work on childcare leave due to Article 19 paragraph (1) of the Act on Gender Equality and Support for Work-Home Compatibility.

[Enforcement Date May 29, 2018] Article 60

(1) **Expansion of two-year annual paid leave guarantee from the date of employment (enforced May 29, 2018)**

Before revision	After revision
15 days' paid annual leave to cover a two-year period from the date of employment	A maximum of 26 days' paid annual leave shall be granted for a two-year period from the date of employment.

(2) **Periods of childcare leave shall be considered as attendance at work (enforced May 29, 2018)**

Before revision	After revision

Total annual leave was reduced in proportion to the childcare leave period and calculated on working days. For example, those taking 6 months of childcare leave between 1 July and 31 December 2017 were entitled to 8 annual leave days, as the 6 months were deducted from the number of working days.	Childcare leave periods are considered as continual work attendance, so workers taking such leave shall receive all annual leave days. For example, if a worker takes childcare leave from 1 July to 31 December 2018, she/he shall still receive 15 days in 2019.

IV. Workplace Working Conditions

1. Enhancement of employer's responsibilities and protective measures for alleged victims of sexual harassment at work (from May 29, 2018)

(1)Stronger requirements for education against sexual harassment at work

The duty of the employer to provide education to prevent sexual harassment is specified in law, instead of Presidential Decree (Article 13-(1)). Such education shall be conducted every year and the details of such shall be posted.

(2) Stronger employer obligation to take action in the event of sexual harassment at work, etc.

Anyone is entitled to report sexual harassment at work to the employer, who shall take action to protect the alleged victim while investigating the facts. When sexual harassment is confirmed to have taken place, the employer shall take disciplinary action against or change the workplace of the person who committed the sexual harassment. The victim's statement and confidential information obtained during a sexual harassment investigation shall not be divulged to anyone. (Article 14 (7) provides a penalty of up to KRW 5 million for violation).

(3) Stronger employer obligation to take action when a customer sexually harasses an employee

When a customer is found to have sexually harassed an employee, the employer shall move the harassed employee or provide paid leave to him or her, with a penalty of up to KRW 3 million imposed for violations.

Article 13 (Education to Prevent Sexual Harassment at Work)

(1) Employers shall conduct education on preventing sexual harassment at work (hereinafter referred to as "education to prevent sexual harassment") and to create a safe working environment for workers.

(2) Employers and workers shall be required to take education to prevent sexual

harassment.

(3) Employers shall post or keep materials on preventing sexual harassment in easily accessible areas at the workplace.

(4) Employers shall take measures to prevent and prohibit sexual harassment in the workplace in accordance with the standard as determined by Ordinance of the Minister of Employment and Labor.

(5) All necessary matters regarding the content, methods and frequency of education on preventing sexual harassment as prescribed in paragraphs (1) and (2) shall be determined by Presidential Decree.

Article 13-2 (Entrustment of Education to Prevent Sexual Harassment at Work)

(2) In cases where an employer wants to entrust an appropriate institution to conduct education on preventing sexual harassment, he/she shall notify the institution of what is determined by Presidential Decree as prescribed by Article 13 paragraph (5) and ensure that it is included.

Article 14 (Actions in the Event of Sexual Harassment on the Job)

(1) Workers can report to their employer any discovery of sexual harassment.

(2) Upon receiving a report as prescribed in paragraph (1) or discovering an occurrence of sexual harassment in the workplace, the employer shall immediately conduct an investigation to confirm the facts. In such cases, the employer must ensure that the worker who has reportedly suffered from sexual harassment on the job or who has claimed that sexual harassment occurred (hereinafter referred to as the "employee victim etc.") does not feel sexually humiliated during the investigation process.

(3) In protecting an employee victim etc. during the investigation period as prescribed in paragraph (2), the employer shall take appropriate measures such as changing the place of work or providing paid leave if necessary. In any case, the employer shall not take action that goes against the will of the employee victim, etc.

(4) If the investigation conducted as prescribed in paragraph (2) confirms that sexual harassment has occurred on the job against the employee victim, the employer shall take appropriate measures as necessary and as requested by the employee victim, such as changing the employee victim's place of work, transferring, or providing paid leave.

(5) If the investigation conducted as prescribed in paragraph (2) identifies the perpetrator of sexual harassment on the job, the employer shall immediately change the perpetrator's place of work or take other disciplinary actions. In such cases, the employer shall listen to the view of the employee victim on the disciplinary action before carrying it out.

(6) Employers shall not take any of the disadvantageous actions listed in the following sub-paragraphs against an employee who reports sexual harassment or against an employee victim etc.:

1. Expulsion, dismissal or any disadvantageous measures corresponding to rejection of the worker's status;
2. Unfair personnel actions such as penalties, suspension, reduction of wages, demotion, or limitations on promotion;
3. Unfair personnel actions such as relieving of all duties or reassigning duties against the worker's will;
4. Discriminative evaluations of achievement, peer evaluations or unfair payment of

wages or bonuses based on such unfair evaluations;

5. Limiting educational or training opportunities to develop and/or improve vocational abilities;
6. Perpetration of actions such as bullying, physical or verbal abuse which inflict emotional or physical damage, and neglecting to stop the occurrence of such actions;
7. Any other disadvantageous measures against the will of the worker who reported the sexual harassment or against the employee victim etc.

(7) Persons who investigate the report of sexual harassment on the job as prescribed in paragraph (2), who receive such a report, or who participate in the investigation process shall not divulge the confidential information they learn during the investigation against the will of the employee victim etc.: Provided, that this shall not apply to cases where they are reporting information relevant to the investigation to the employer or providing necessary information upon request from relevant institutions.

Enforcement Decree Article 14-2 (Prevention of Sexual Harassment by Clients, etc.)

(1) Where any person closely related to the duties, such as a client, causes a worker to feel sexual humiliation or repulsion by sexual words, actions, etc. during the performance of his/her duties and such worker requests resolution of the grievance thereby, his/her employer shall endeavor to take all possible measures, such as changing the place of work or transferring.

2. Workers working for at least six months are entitled to childcare leave. (from May 29, 2018)

Article 19 (Violation of Working Conditions) (1) If any of the working conditions set forth in accordance with Article 17 are found to be inconsistent with actual conditions, the worker concerned shall be entitled to claim damages resulting from the breach of working conditions or may terminate the labor contract forthwith.

Enforcement Decree Article 10 (Exclusion from Childcare Leave) An employer, pursuant to the proviso to Article 19 (1) of the Act, may opt to not grant childcare leave in any of the following cases:

1. A worker has offered continuous services in the business concerned for less than six months prior to the scheduled date of childcare leave (hereinafter referred to as "scheduled start date of leave");
2. A worker's spouse is on childcare leave for the same infant (including childcare leave provided under other Acts and subordinate statutes).

Attachment. This will take effect on 29 May 2018.

Before revision	After revision
Employers shall allow workers with at least **one year of employment** at the workplace to apply for childcare leave.	Employers shall allow workers with at least **six months of employment** at the workplace to apply for childcare leave.

3. Education to improve awareness of persons with disabilities at least once a year

(from 29 May 2018)

(1) Compulsory education & related penalties

Employers shall work to eliminate bias in the workplace against those with disabilities, create stable working conditions for them, and educate their workforce to improve its awareness of persons with disabilities. Mandatory education covers all businesses or workplaces employing more than 50 workers and shall consist of one hour per year. Employers shall keep records related to the education for 3 years. (Articles 5-2, 5-3, 86 of the Employment Act for Persons with Disabilities, and (3) Article 5-2 of the Enforcement Decree).

(2.) Content of mandatory education

Education to improve workplace awareness of persons with disabilities shall include: ① the definition of disability and types of disability; ② human rights, prohibition of discrimination against, and provision of fair accommodations for persons in the workplace with disabilities; ③ laws and systems related to employment promotion and vocational rehabilitation of persons with disabilities; and ④ other content deemed necessary to improve awareness in the workplace of persons with disabilities. This education can be done collectively, as an inquiry or a meeting, or through remote education using the Internet or other communication network, or experiential in consideration of the size and characteristics of the business (Article 5-2 of the Employment Act for Persons with Disabilities).

4. The Workplace Harassment Prevention Law

(1) Definition of workplace harassment

It is meaningful that the definition of workplace harassment clearly defines the obligations of the related employer and the standard for incidents of harassment. Until this concept was established, Korean labor law set no legal obligations or liability in relation to workplace harassment. In general, it is very meaningful that the Labor Standards Act has stipulated a definition of workplace harassment to strengthen the obligations of employers and to protect workers with ways to receive remedy for workplace harassment.

(2) Establishment of the employer's duty for action in the event of workplace harassment

A person who suffers from workplace harassment, or a third party, can notify the employer of the incident. An employer who has been informed of the occurrence of workplace harassment must conduct an investigation to confirm the facts. In the course of this investigation, measures shall be taken to protect the alleged victim and, if investigation

confirms that workplace harassment has indeed occurred, disciplinary action should be taken without delay.

The workplace rules for reporting workplace harassment and the process and procedures shall comply with the procedures for sexual harassment remedy under Article 14 of the Equal Employment Act.

(3) The addition of 'workplace harassment' in the items required in Rules of Employment

Employers who routinely employ 10 or more workers must address 12 required items in the Rules of Employment and report them to the Minister of Employment and Labor (Article 93 of the LSA). The additional required item relates workplace harassment: "11. Matters concerning prevention and measures in case of occurrence of workplace harassment." In other words, it shall be stipulated in the Rules of Employment that the company has implemented measures to deal with workplace harassment.[5]

(4) Penalties applicable for unfair treatment by an employer

It is regulated as the employer's duty, in the self-governing rules, that the employer shall explore preventive measures against workplace harassment and take appropriate actions in the event of its occurrence. However, if disadvantageous treatment of alleged victims is taken, the employer can face severe punishment, similar to the Equal Employment Act. In other words, Article 110 of the Labor Standards Act stipulates "imprisonment for up to three years or a fine of not more than KRW 30 million for violation of Article 76-3 (Paragraph 6) of this Act".

Article 76-2 (Prohibition of Workplace Harassment) Employers or employees shall not cause physical or mental suffering or deteriorate the working environment, exceeding the appropriate level of bearable limits, by taking advantage of his or her position or relationship in the workplace (hereinafter referred to as "workplace harassment").

Article 76-3 (Measures for Bullying in the Workplace) ① Any employee who has been informed of the occurrence of workplace harassment can report the fact to the employer.

② The employer shall conduct an investigation to confirm the facts without delay if the employer acknowledges the occurrence of harassment in the workplace or accepts a notification under Paragraph 1 above.

③ The employer shall, when necessary for the protection of workers who have allegedly suffered injury related to workplace harassment within the period of investigation

[5] Labor Ministry Guideline: "Operational Guidelines for Rules of Employment", LSA Dept-1119, April 24, 2009.

pursuant to paragraph 2 (hereinafter referred to as "victims"), implement appropriate measures such as changing their place of work, or placing them on paid leave, etc. In any case, the employer shall not take such actions against the will of the victim.
④ The employer shall take appropriate measures such as changing the victim's place of work, changing their job duties, or placing him/her on paid leave etc. should the victim request it, if workplace harassment is confirmed, as a result of the investigation pursuant to Paragraph 2 above, to have taken place.
⑤ The employer shall take all necessary measures against the perpetrator such as disciplinary action, changing the work place, etc. without delay if it is confirmed that workplace harassment has occurred. In this case, the employer shall consider the opinion of the victim regarding the proposed measures prior to taking any disciplinary or other action.
⑥ The employer shall not dismiss or take any unfavorable action against the victim.

Article 93 (Preparation and Filing of Rules of Employment) 11. Matters concerning prevention of and measures to handle an occurrence of workplace harassment

Article 109 (Penalty) Employers found to have violated Paragraph 6 of Articles 76-3 of this Act shall be punished with imprisonment of not more than three years or a fine of not more than KRW 30 million.

5. Recognizing a Commuting Accident as Work-related

Although Industrial Accident Compensation Insurance (IACI) has not applied to accidents that occur while commuting in principle, accidents which occur during a commute using transportation provided by the employer or equivalent have been acknowledged as industrial accidents. Even if two similar accidents occur while commuting, the accident that occurred while using transportation provided by the employer was recognized as a work-related accident, while an accident which occurred while commuting on foot or using personal or public transportation was not so recognized. The Constitutional Court ruled that this application was unconstitutional and violated the principle of equality. The Court made a decision that the related legal provision was unconstitutional, stating that a legislative amendment was to be made by the end of 2017.[6] Accordingly, the related provision was revised on September 28, 2017, and beginning January 1, 2018, accident insurance has been applied to accidents occurring during normal commutes.

[6] The Constitutional Court ruling on Sep. 29, 2016, 2014 Hunba 254 (Article 37 (1)-C of IACI Act)

A. Industrial Accident Compensation Insurance Act: Article 37 (Standards for Recognition of Occupational Accidents)

(1) If a worker suffers any injury, disease, or disability or dies due to any of the following causes, it shall be deemed an occupational accident: Provided, that this shall not apply where there is no proximate causal relation between his/her duties and the accident:

1. Accident on duty: (Contents omitted)
2. Occupational disease: (Contents omitted)
3. Accident occurring during a commute:
   (A) Accidents that occur while commuting to work under the control of the employer, such as using transportation provided by the employer or equivalent transportation;
   (B) Accidents that occur while commuting to work along common routes and in a common manner.

(2) (omitted).

(3) If there is a deviation or interruption of the commuting route as per Subparagraph 3 (B) of Paragraph (1), an accident during the deviation or interruption and subsequent movement during the commute shall not be regarded as a work-related accident. However, if the deviation or interruption of the commuting route is an act necessary for daily life and carries a reason prescribed by Presidential Decree, it shall be deemed a work-related commuting accident.

B. Enforcement Decree of IACI Act: Article 35 (Accident during commuting)

(1) (omitted)

(2) In the proviso of Article 37 (3) of the IACI Act, the term "a reason prescribed by Presidential Decree as an act necessary for daily life" means any of the following instances:

1. Buying necessary supplies for daily life;
2. Receiving education or training in accordance with Article 2 of the Higher Education Act or at vocational education and training institutions under Article 2 of the Vocational Education and Training Promotion Act which can contribute to development of vocational ability;
3. Exercising the right to vote;
4. Taking or bringing a child or disabled person under the care of an employee to a child care or educational institution;
5. Receiving medical treatment at a medical institution or public health center for the purpose of treating or preventing a disease;
6. Caring for a family member at a medical institution in a family that needs the worker's care;
7. Acts in accordance with the provisions of Items 1 to 6 which the Minister of Employment and Labor considers to be necessary for daily life, such as buying supplies necessary for daily life.