## Revision on

## 「 ACT ON THE GUARANTEE OF EMPLOYEES' RETIREMENT BENEFITS」

**Act No.18038**

**[Amendment Date 13. April, 2021]
[Enforcement Date 14. April, 2022]**

**Kang Nam Labor Law Firm**

**Individual Retirement Pension Plan (IRP) Account Transfer and Exceptions**

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| **Regulatory provisions** | ○ 「 Act on The Guarantee Of Employees' Retirement Benefits」 Article 9○ Enforcement Decree Article 3-2 |
| **Enforcement Date** | 14. April, 2022 |
| **Background of the revision** | ○ To promote the reasonable operation of the system by clarifying the reason why IRP cannot be paid in in a simple practical manner, although it is stipulated in the similar way as retirement pension. |
| **Main Content** | ○ The retirement allowance must be paid by transferring it to the IRP account.- The Enforcement Decree mandates following for exceptions.○ In accordance with Article 3-2 of the Enforcement Decree, exceptions include : ① a pension holder retires after the age of 55, ② a retirement benefit is less than the amount prescribed by the Minister of Employment and Labor, ③ a pension holder retires due to death, ④ a pension holder leaves the country with their retirement as a worker who provided work as a temporary residence pursuant to 「Enforcement Decree Of The Immigration Act」 Article 23 (1), ⑤ Some or all of his/her wages are deducted under other laws |

**Establishment and operation of the Reserve Management Committee
and administrative fines for non-fulfillment**

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| **Regulatory provisions** | ○ 「 Act On The Guarantee Of Employees' Retirement Benefits」 Article 18-2○ Enforcement Decree Article 10(Newly Established), Article 10-2(Newly Established), Article 48 |
| **Enforcement Date** | 14. April, 2022 |
| **Background of the revision** | ○ To improve rate of return through operating Committee for the Reserves Management(hereinafter referred to as "Committee") and to establish a reasonable retirement pension reserve management system. |
| **Main Content** | ○ Composition of Committee- (In the case of a business or workplaces regularly employing at least 300 employees), Committee shall be established.- The chairperson of the Committee shall be an executive in charge of the retirement pension, and the number of members shall be not less than five and not more than seven.- If the minimum reserve ratio pursuant to Article 16 (1) is not met, at least each one person shall be included. (① representative of employees, ② the department head of a retirement pension-related department, ③ a retirement pension expert)○ Operation of the Committee- Meetings shall be held at least once a year, and major matters, including the reserve management plan and the fiscal stabilization plan, shall be deliberated and resolved.- Other details on the operation and procedures of the committee are delegated by public notice.○ Matters to be written in the reserve management plan- Matters concerning the scope of application of the reserve management plan, matters concerning the composition and operation of the committee, matters concerning the operation of the reserve, such as the setting the target rate of return and asset allocation policy, and the obligations of a person in charge of operating the reserve, etc.○ Administrative fines imposed for non-fulfillment- In accordance with Article 48 (2) 1-2 and 1-3 of the Act, if a committee is not formed or a reserve management plan is not prepared, a fine of not more than 5 million won is imposed. |

**Matters concerning Standard Contract of the Small and Medium Enterprise Retirement Pension Fund**

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| **Regulatory provisions** | ○ 「 Act On The Guarantee Of Employees' Retirement Benefits」 Article 23-5(Newly Established), Article 35○ Enforcement Decree Article 16-7(Newly Established), Article 16-8(Newly Established) |
| **Enforcement Date** | 14. April, 2022 |
| **Background of the revision** | ○ To prevent confusion in the on-site by specifying matters related to education and burden of commission in the standard contract. |
| **Main Content** | ○ If the Standard Contract of the Small and Medium Enterprise Retirement Pension Fund (hereinafter referred to as "Standard Contract") is approved or changed, it must be approved by the Ministry of Employment and Labor.○ The Standard Contract shall include matters concerning ① the burden of commission for the operation and management of the Small and Medium Enterprise Retirement Pension Fund and② matters concerning the methods and procedures of education for pension holders.- Employer shall pay the commission of the employer-paid account and the pension holders shall pay the commission of pension holder-paid account○ In accordance with Article 35 of the Act, in case of violation of this Act and the Standard Contract, the Minister of Employment and Labor may order to correct. |

**Matters concerning payment of contribution and provision of operational information**

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| **Regulatory provisions** | ○ 「 Act On The Guarantee Of Employees' Retirement Benefits」 Article 23-7(Newly Established), Article 23-8(Newly Established), Article 23-10(Newly Established),○ Enforcement Decree Article 16-10(Newly Established), Article 16-11(Newly Established), Article 16-12(Newly Established), Article 16-13(Newly Established) |
| **Enforcement Date** | 14. April, 2022 |
| **Background of the revision** | ○ To prevent on-site confusion by stipulating that necessary information shall be noticed to parties in a timely manner, and defining the limit of contribution account in the same way as retirement pension. |
| **Main Content** | ○ Employers that have established the Small and Medium Enterprise Retirement Pension Fund shall regularly pay at least one-twelfth of the total annual wage of pension holders at least once a year.○ Unpaid contributions shall be paid at the time of retirement within 14 days, and it can be extended by agreement of the parties. Delayed interest shall be paid in accordance with the number of days of delay.- In accordance with Article 44 (2) of the Act, non-compliance shall be punished by imprisonment for not more than 3 years or by a fine not exceeding 30 million won.○ Korea Workers' Compensation and Welfare Service shall provide information on profits and losses arising from the management of the fund by mail, information and communication network, etc.○ Limit of contribution that pension holders can pay is 18 million won per year pursuant to the 「Enforcement Decree of the Income Tax Act」 Article 40-2 (2) |

**Matters concerning national subsidy for employer and employees**

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| **Regulatory provisions** | ○ 「 Act On The Guarantee Of Employees' Retirement Benefits」 Article 23-14(Newly Established)○ Enforcement Decree Article 16-16(Newly Established), Article 16-17(Newly Established), Article 16-18(Newly Established), Article 16-19(Newly Established) |
| **Enforcement Date** | 14. April, 2022 |
| **Background of the revision** | ○ To reduce the financial burden of the project and to promote to participate of the Small and Medium Enterprise Retirement Pension Fund○ To clarify matters related to national subsidy for convenience |
| **Main Content** | ○ It is stipulated that national subsidy(employer contribution and commission) is provided for the low income workers in the workplaces employing less than 30 employees.- Income standards for low-income workers, the amount of subsidies, and the duration of providing subsidies available delegated by public notice.○ In order for the employees to receive the subsidies, it is required to file an application to the corporation and the subsidies shall be given to the employer's account.○ It stipulates procedures and payment methods for the national subsidy, targets and procedures for redemption, and the scope of data available for payment of state subsidies.○ A person who receives a subsidy by fraud or other illegal means pursuant to Article 23-14 (3) 1 of the Act shall be punished by a fine not exceeding 5 million won. |

**Expansion of institutions entrusted education for pension holders**

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| **Regulatory provisions** | ○ 「 Act On The Guarantee Of Employees' Retirement Benefits」 Article 32○ Enforcement Decree Article 31, Article 32-2(Newly Established), 32-3(Newly Established) |
| **Enforcement Date** | 14. April, 2022 |
| **Background of the revision** | ○ To improve the quality of education for pension holders through operating the education system by specialized institutions. |
| **Main Content** | ○ It is stipulated that the employer can entrust the education for the pension holders to an institution designated by the Minister of Employment and Labor as well as retirement pension trustees.- Educational materials must be stored for three years, and the grounds for cancellation of the designation and hearing procedures are stipulated.○ Exaltation of education methods to Enforcement Decree and Revision on initial education methods.- The contents and methods of education stipulated in the existing Ordinance of the Ministry of Employment and Labor are upgraded to Presidential Decree.- However, it is stipulated that education through e-mail and online education using information and communication networks are possible during the first training of subscribers in consideration of COVID-19 and postal shipping costs.\* The existing Ordinance of the Ministry of Employment and Labor stipulated that only mailing and face-to-face training are possible during the initial training. |

**Duty to notify employees and to consult with representatives of employees, regarding the reduction of retirement benefit**

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| **Regulatory provisions** | ○ 「 Act On The Guarantee Of Employees' Retirement Benefits」 Article 32-5(Newly Established) |
| **Enforcement Date** | 14. April, 2022 |
| **Background of the revision** | ○ To strengthen workers' right to receive benefits by notifying the insured in advance that retirement benefits may be reduced. |
| **Main Content** |  ○ Employers who have set up a defined benefit retirement pension plan or severance pay system must notify employees in advance that their retirement benefits may decrease in the case of the following events, and take measures to prevent a decrease in retirement benefits through consultation with representatives of employees.1. When system is implemented that adjusts the wages based on workers' certain age, etc. and extends the retirement age through employment rules, etc.2. When employer agrees with the employee to reduce contractual work hours(1 hour or more of per day or 5 hours or more per week), whereby the employee decides to continue working for 3 months or more according to the shortened working hours3. When wages of workers decrease due to shortened working hours in accordance with the enforcement of the partially amended Labor Standards Act, Act No. 155134. Other cases prescribed by Ordinance of the Ministry of Employment and Labor due to a decrease in wages.○ Non-compliance is subject to a fine of not more than 5 million won in accordance with Article 46 of the Act. |

**Administrative** fines for insufficient minimum reserves in the Defined Benefit Plan

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| **Regulatory provisions** | ○ 「 Act On The Guarantee Of Employees' Retirement Benefits」 Article 48○ Enforcement Decree Article 5, Article 7 |
| **Enforcement Date** | 14. April, 2022 |
| **Background of the revision** | ○ To reasonably operate the Defined Benefit Retirement Pension Plan and to strengthen workers' right to receive benefits |
| **Main Content** | ○ (In case of a retirement pension trustee), if the financial verification result is not notified to the employer or the reserve fund is insufficient, a fine of not more than 10 million won is imposed on a retirement pension trustee who does not notify results to the representatives of employees.○ (In case of employers) If measures to resolve the shortage of reserves are not taken, fine is imposed.- Penalty of up to 10 million won is imposed if more than one-third of the insufficient ratio to the minimum reserve is not resolved within one year.\* 1st failure: 2 million won, 2nd failure: 5 million won, 3rd failure: 10 million won○ The fiscal stabilization plan, which requires equal resolution of the existing reserve shortage within three years, is changed to a plan that resolves at least one-third of the insufficient ratio to the minimum reserve within one year. ○ Penalty is imposed if a financial stabilization plan is not prepared within 60 days after notified the financial verification result or if the representative of employee is not notified.\*Once: 1 million won, Twice: 2 million won, More than 3 times: 5 million won |

**Clarification of laws and regulations governed by administrative interpretation**

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| **Regulatory provisions** | ○ 「 Act On The Guarantee Of Employees' Retirement Benefits」Enforcement Decree Article 11-2(Newly Established), 11-3(Newly Established) |
| **Enforcement Date** | 14. April, 2022 |
| **Background of the revision** | ○ It is intended to clarify the matters recognized as administrative interpretation based on existing 「Labor Standards Act」 and 「Equal Employment Opportunity And Work-family Balance Assistance Act」.○ To improve the accessibility to laws and convenience for the people and reduce administrative costs. |
| **Main Content** | ○ To ensure that workers do not get any disadvantages, grounds for excluding the period and the total amount of wages are specified, when calculating the contributions through precedents and administrative interpretation- ⓛ Probation period, ② Business shuts down due to a cause attributable to the employer, ③ Maternity leave, ④ Suspension of work due to the occupational injury or disease, ⑤ Time off due to child-care leave, ⑥ Industrial action, etc.○ In order to establish or change the Defined Benefit Plan, the criteria for calculating charges and the timing of payment are clarified when past working periods is retroactively applied.- Criteria for calculating the amount of contribution : the larger amount between "one-twelfth of the total annual wage for one year of the past working period" and "average wage for 30 days for one year of the past working period"- Time of Payment : Payment on the date determined to include the past working period in the period of contribution |

**Clarification of early withdrawal requirements for the Individual Retirement Pension System (IRP)**

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| **Regulatory provisions** | ○ 「 Act On The Guarantee Of Employees' Retirement Benefits」 Enforcement Decree Article 18 |
| **Enforcement Date** | 14. April, 2022 |
| **Background of the revision** | ○ In order to prevent confusion in the field and clarify laws and regulations, provisions on the requirements for withdrawal of IRP plans are stipulated. |
| **Main Content** | ○ Clarified the requirements for withdrawal in consideration of the characteristics of IRP plans- Until now, the requirements for withdrawal of the IRP have been stipulated in the same way as the requirements for withdrawal of the Defined Benefit retirement pension plan.\* IRP Special Cases: If Business or workplaces regularly employing at least 10 employees establishes IRP Plan with the consent of individual workers, it is regarded as having established a retirement pension plan and operated in the same way as a Defined Contribution Retirement Pension Plan(DC Plan)- Since the IRP special case presupposes that employees work in the workplace, it is necessary to stipulate that the requirements for withdrawal of the Defined Contribution Retirement Pension Plan are applied in the case of the IRP special case. |