2014 Labor Inspector's Auditing Items

The contents described here are checked frequently by the labor inspectors and given for correction orders to the companies. Employers are advised to comply with the list of items.

I. Labor Standards Act

1. An employer shall clearly state the terms of employment at the time the labor contract is made.

※ *Punishable by a fine not to exceed five million WON*

Statement of Working Conditions (Article 17 of the LSA, Article 8 of the Enforcement Decree)

Working Conditions to be specified

① Remuneration; ② Contractual working hours; ③ Holidays; ④ Annual paid leave ⑤ Place of employment and work to be performed; ⑥ Matters to be stipulated in the Rules of Employment (ROE); and ⑦ Matters determined by dormitory rules, in case of having workers lodge in a dormitory attached to the workplace.

2. An employer shall clearly state remuneration, contractual working hours, holidays, annual paid leave, and other terms of employment in writing at the time the labor contract is made.

※ *Punishable by a fine not to exceed five million WON*

Article 17 of the LSA

3. An employer shall issue specific matters of remuneration, methods of calculation and payment, holidays, and annual paid leave in writing.

※ *Punishable by a fine not to exceed five million WON*

(1) Statement of Terms of Employment (Article 17 of the Labor Stands Act [LSA], Article 8 of the Enforcement Decree)

An employer shall clearly state remuneration, contractual working hours, holidays, annual paid leave, and other terms of employment. For specific matters of remuneration, methods of calculation and payment, holidays, and annual paid leave shall be specified in writing and the employment contract shall be issued to the employee even if there is no demand from the employee. However, as for reasons determined by the Presidential Decree (change by written agreement based upon the employee representative regarding Flexible Working Hour System, Selective Working Hour System, System of Using Leave as Compensation, Special Provisions for Computation of Working Hours, Special Provisions as to Working and Recess Hours, and Promoting the Use of Annual Paid Leave, revision of the Rules of Employment, and revision of the Collective Agreement), the employer shall issue the changed employment contract when the employee request it.

※ Implemented from January 1, 2012 (Applicable to all companies even that employed one employee or more)

4. An employer shall keep employees informed of the main points of this Labor Standards Act, the Presidential Decree promulgated pursuant hereto, and the rules of employment, by posting at all times or keeping them where workers have free access..

※ *Punishable by a fine for negligence not to exceed five million WON*

[Applicable to the companies that employed 5 employees or more]

Publicity of Law and Decree, etc.(Article 14 of the LSA)

5. An employer shall maintain a registry of workers by workplace, containing name, birth date, personal history and other items relating to workers. If there is any change in the items prescribed, correction shall be made without delay.

※ *Punishable by a fine for negligence not to exceed five million WON*

Registry of Workers and Preservation of Documents regarding Contract (Articles 41 & 42)

An employer shall maintain a registry of workers by workplace, and preserve a registry of workers and other important documents regarding labor contract Decree for three years.

1) Matters to be kept in the register of workers: ① Name; ② Sex; ③ Date of birth; ④ Address; ⑤ Personal history; ⑥ Type of work to be performed; ⑦ Date of employment or renewal of employment, including a contractual period if any period determined, and other matters relating to employment; ⑧ Date of dismissal, retirement or death, and the reasons thereof; and ⑨ Other necessary matters
2) Important Documents Regarding Labor Contracts: ① Labor contracts; ② Wage ledgers; ③ Documents pertaining to the basis for the determination, payment method and calculation of wages; ④ Documents pertaining to employment, dismissal or retirement; ⑤ Documents pertaining to promotion or demotion; ⑥ Documents pertaining to leaves of absence; ⑦ Documents pertaining to approval or authorization; ⑧ Documents of written agreements; and ⑨ Documents pertaining to the minor certification to verify minor's age.

6. A person under the age of 15 (including those under the age of 18 who are attending a middle school) shall receive an employment permit in order to be employed.
※ *Punishable by imprisonment of up to two years, or by a fine not to exceed ten million won*

Minimum Age and Employment Permit (Article 64 of the LSA, Article 35-39 of its ED)

A person under the age of 15 (including those under the age of 18 who are attending a middle school) shall not be employed as a worker. However a person with an employment permit issued by the Minister of Employment and Labor may be employed as a worker.

➔ Those under the age of thirteen may obtain an employment permit in case where they intend to participate in an art performance.

7. For each minor under 18, an employer shall keep in the workplace a certificate proving his/her family relationships and written consent of his/her parent or guardian**.**
※ *Punishable by a fine for negligence not to exceed five million WON*

A Minor Certificate (Article 66 of the Labor Standards Act) is required to have on file

8. No employer shall employ those aged less than 18 for hazardous and dangerous work in terms of morality or health.
※ *Punishable by imprisonment of up to three years, or by a fine not to exceed twenty million won*

Prohibition of Employment(Article 65 of the LSA, Article 40 of its ED, and Table 4)

※ Types of Work Prohibited for Minors

① Work in high pressure and work under water;

② Driving or operating work of cars prohibited for its acquisition of license by the Construction Machinery Management Act and the Road Traffic Act;

③ Work prohibiting employment and entrance by the Minor Protection Act;

④ Prison and mental hospital;

⑤ Incineration and butchering;

⑥ Handling petroleum (except for refueling service);

⑦ Handling and exposing work to 2-Propane; and

⑧ Other works promulgated by the Minister of Employment and Labor via the reviews of the committees of the Industrial Accident Compensation Insurance

9. Contractual working hours for employees shall not exceed forty hours per week and eight hours per day, excluding recess hours. (For minors, 7 hours per day and 40 hours per week)

※ Punishable by imprisonment of up to two years, or by a fine not to exceed ten million won

Working hours (Article 50 and Article 69 of the LSA)

Working hours per week shall not exceed forty hours excluding recess hours, and Working hours per day shall not exceed eight hours excluding recess hours. Working hours exceeding standard working hours shall be paid with an added allowance for extended working hours.

10. Extended working hours beyond 40 shall be implemented with the agreement of the affected employee, and shall not exceed 12 hours per week. (For minors, 6 hours per week)

※ Punishable by imprisonment of up to two years, or by a fine not to exceed ten million won

Restriction on Extended Work (Article 53 of the LSA)

If the parties concerned reach agreement, the number of working hours stipulated in Article 50 may be extended by a maximum of twelve hours per week.

11. When an employer intends to have a female aged 18 or older work at night and on holidays, the employer shall obtain the consent of the female concerned. ※

※ Punishable by imprisonment of up to two years, or by a fine not to exceed ten million won

Restrictions on Night Work and Holiday Work (Article 70 of the LSA)

When an employer intends to have a female aged 18 or older work from 10 p.m. to 6 a.m. and/or on holidays, the employer shall obtain the written consent of the female concerned.

12. An employer shall not have a pregnant female, or one who is younger than 18, work at night or on holidays.

- Minor : Individual consent + permission for Minister of Employment & Labor
- Mother employee : Individual consent + Permission for MOEL
- Pregnant employee: Personal request + Permission for MOEL

※ *Punishable by imprisonment of up to two years, or by a fine not to exceed ten million won*

Restrictions on Night Work and Holiday Work (Article 70 of the LSA)

(1) If an employer intends to have a pregnant female, or one who is younger than 18, work from 10 p.m. to 6 a.m. and on holiday, the employer shall obtain written consent of the employees and permission from the Minister of Labor.

(2) In the case of a pregnant female, the employer can have the employee work at nighttime and on holiday only when she makes a request and the employer receives permission from the Minister of Labor.

(3) An employer, before obtaining permission from the Minister of Labor, shall consult in good faith with a workers' representative of the business or workplace concerned as to whether there will be night work or holiday work and its implementation methods for workers' health and maternity protection.

13. An employer shall pay an additional fifty percent or more of the ordinary wages for extended work, night work, or holiday work.

※ *Punishable by imprisonment of up to three years, or by a fine not to exceed twenty million won*

Extended Work, Night Work and Holiday Work (Article 56 of the LSA)

(1) Night work means the work done from 10 p.m. to 6 a.m., and holiday work means the work exempt from duty to provide labor stipulated by the law, collective agreement, Rules of Employment (ROE) or labor contract.

(2) The concept and application of "ordinary wage"

"Ordinary wage" is the wage determined to be paid uniformly when contractual labor service is provided. All allowances which legally qualify as ordinary wage shall be included in ordinary wage regardless of the title of the allowance. Since ordinary wage becomes the basic wage used to calculate additional wages, it should be considered a financial reward reflecting the value of labor

service provided ordinarily for contractual working hours in accordance with the employment contract (remuneration for labor). Accordingly, the additional wages paid for special work provided, and not for assigned work as per the employment contract, shall not be considered ordinary wage. In addition, this ordinary wage must have been determined before providing actual overtime work. The reason for this is that the previously determined ordinary wage calculation shall be used immediately when the overtime work is actually provided. Requirements of the ordinary wage shall be comprised of all three components: ① periodicity; ② uniformity, and ③ fixedness.

14. Wages shall be paid in full to employees in cash and at least once per month on a fixed day.
※ Punishable by imprisonment of up to three years, or by a fine not to exceed twenty million won

Payment of Wages (Article 43 of the Labor Standards Act)

(1) Wages shall be paid at least once per month on a fixed day. Payment of wages shall be directly made in full to worker in cash; however, if otherwise stipulated by special provisions of laws or decrees or a collective agreement, wages may partially be deducted or may be paid by other than cash. However, this shall not apply to extraordinary wages, allowances, or any other similar payment or those wages provided for period exceeding one month according to the employee's attendance rate.

2) The term “wages” in this Act means wages, salaries and any other money and valuable goods an employer pays to a worker for his/her work, regardless of how such payments are decided.

15. An employer shall prepare a wage ledger for each workplace and enter the matters which serve as a basis for determining wages and family allowances, the amount of wages and other matters as provided for by the Presidential Decree whenever wages are paid. *※ Punishable by a fine for negligence not to exceed five million WON*

Wage Ledger (Article 48)

(1) Entries into Wage Ledger

1) An employer shall enter the matters stipulated in the following subparagraphs, for each individual worker, into the wage ledger as prescribed in Article 48 of the Act: 1. Name; 2. Resident registration number; 3. Date of employment; 4. Description of duties; 5. Matters on the basis of which wages and family allowances are calculated; 6. Number of working days; 7. Number of working hours; 8. Number of hours of overtime work, night work, or holiday work if there is any; 9. Amount by wage category, such as basic pay, allowances, or other wages (in case there are wages paid by

means other than in currency, their name, quantity and estimated total amount); and 10. Amount deducted pursuant to the proviso of Article 43 (1) of the Act, if there is such deduction.

2) With respect to daily workers whose period of employment is less than thirty days, the matters regarding Name; Resident registration number; and Matters on the basis of which wages and family allowances may not be entered. With respect to a worker of a business or workplace, which ordinarily employees 4 workers or less, the matters regarding Number of working hours, and Number of hours of overtime work, night work, or holiday work not be entered.

16. If a worker quits or retires, an employer shall pay the forthcoming wages, compensation, and other money or valuables within 14 days after the cause for such payment has occurred; however, this period, under special circumstances, may be extended by mutual agreement between the parties concerned.

※ *Punishable by imprisonment of up to three years, or by a fine not to exceed twenty million won*

Payment of Money and Valuables (Article 36)

17. An employer shall allow, on average, one or more paid days off per week to workers who have fulfilled their contractual working days per week.

※ *Punishable by imprisonment of up to two years, or by a fine not to exceed ten million won*

Holidays (Article 55 of the LSA)

An employer shall additionally pay fifty percent or more of the ordinary wages for holiday work.

18. When employees work on paid holidays, the employer shall pay additional wages (fifty percent or more of the ordinary wages). The employer shall pay the base wage, wages related to holiday work, and additional allowances respectively.

※ *Punishable by imprisonment of up to three years, or by a fine not to exceed twenty million won*

A holiday is a day where the duty to provide labor according to law, collective agreement, or Rules of Employment (ROE), is not required. There are two types: statutory holidays and contractual holidays.

(1) A Statutory Holiday is a holiday provided by law, which includes of week holidays and Labor Day

(2) A Contractual Holiday is a holiday stipulated by the collective agreement or the Rules of

Employment (ROE), and whether it is paid or unpaid shall be determined by mutual agreement.

19. An employer shall grant 15 days' paid leave to workers who have worked more than 80 percent of their contractual working days over one year. After the employee's first year of service, the employer shall grant annual paid leave of one additional day for each two years of consecutive service.

※ *Punishable by imprisonment of up to two years, or by a fine not to exceed ten million won*

Annual paid leave (Article 60, Article 62 of the LSA)

(1) An employer shall grant 15 days' paid leave to workers who have worked more than 80 percent of their contractual working days in one year. If the worker has already used part of his/her annual leave during the first year of service, the number of used leave days shall be deducted from the 15 days.

(2) After the employee's first year of service, the employer shall grant annual paid leave of one additional day for each two years of consecutive service, starting with the third year of service. The total number of leave days, including the additional leave, shall not exceed 25.

Years of Employment	1	2	3	4	5	10	15	20	More than 21
Number of Annual Days of Leave	15	15	16	16	17	19	22	24	25

(3) The following periods shall be considered periods of work attendance: The period during which a worker is unable to work due to occupational injuries or illnesses and the period during which a pregnant woman is on maternity leave.

- Any remaining leave shall be forfeited if not used within one year. However, this shall not apply in cases where the worker concerned has been prevented from using the leave due to any cause attributable to the employer.

(4) Employers shall grant paid leave upon request of a worker. However, the leave period concerned may be changed, if granting the leave as requested by the worker might cause serious obstruction to the operation of the business.

(5) An employer may have workers take paid leave on a particular working day in lieu of the annual paid leave, if the employer and the employee representative agree in writing.

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

※ *Punishable by imprisonment of up to two years, or by a fine not to exceed ten million won*

Annual paid leave (Article 60 of the LSA)

An employer shall grant one day's paid leave per month to a worker whose attendance is less than 80 percent, if the worker has offered work without an absence throughout a month. : For an example, if a worker's attendance is less than 80 percent in a year and if the employee has offered work without an absence for six months, he/she is entitled to 6 days of annual paid leave.

21. If the employer has taken measures to promote the use of paid leave, the employer shall have no obligation to compensate the worker for the unused leave.

Promoting the Use of Annual Paid Leave (Article 61 of the LSA)

Within the first 10 days of the six months before unused leave is to be forfeited, employers shall notify their workers how many days of unused leave they have left and urge them in writing to decide when they will use the leave and to inform the employer of the leave period decided upon.

(1) If, 10 days after this notification, an employee has still not let the employer know when he/she plans to use his/her unused leave, the employer shall determine which days the employee can use as paid leave, and notify the worker of the leave period which has been decided in writing no later than 2 months before the unused leave is to be forfeited.

(2) If a worker's unused leave remains unclaimed, resulting in forfeiture of the remaining leave, the employer shall have no obligation to compensate the worker for the unused leave. (This forfeiture shall not be deemed as attributable to the employer's action or inaction.)

22. Employers shall grant pregnant female workers 90 days(120 days if a woman is pregnant with two or more babies)of maternity leave, to be used before and after childbirth. In such cases, 45 days(60 days) or more shall be allocated after childbirth. The first 60 days(75 days)' leave shall be paid leave.

※ Punishable by imprisonment of up to two years, or by a fine not to exceed ten million won

Protection of Pregnant Women (Article 74, Article 75 of the LSA)

23. Employers shall grant protective leave to a female worker who miscarries or whose baby or babies are stillborn if she requests it.

※ Punishable by imprisonment of up to two years, or by a fine not to exceed ten million won

Protection of Pregnant Women (Article 74 of the LSA)

1) Employers shall grant protective leave to a female worker who miscarries or whose baby or babies are stillborn if she requests it. The length of protective leave granted shall be determined according to the length of pregnancy:

① 11 weeks or less: five days from the date of miscarriage or still birth

② 12 weeks or more but less than 15 weeks: ten days from the date of miscarriage or still birth

③ 16 weeks or more but less than 21 weeks: thirty days from the date of miscarriage or still birth

④ 22 weeks or more but less than 27 weeks: sixty days from the date of miscarriage or still birth

⑤ 28 weeks or more: ninety days from the date of miscarriage or stillbirth

2) Subsidy for maternity leave

① Beneficiary: A female worker on maternity leave regardless of type of contract

② Subsidy (based on ordinary wages at the beginning of leave)

Division	Period	Amount	Remarks
Preferentially supported companies	90 days	Up to 4.05 million WON	※ Preferentially supported companies ▶300 persons or fewer for mining, construction, transportation and storage, communication ▶500 persons or fewer for manufacturing ▶100 persons or fewer for other industries
Large companies	30 days	Up to 1.35 million WON	

③ Period of Application

ⓐ Preferentially supported companies: One month after leave begins, but before 12 months after returning from leave (applying every 30 days)

ⓑ Large companies: Within 12 months after return from leave

ⓑHow to Apply: An employee who receives confirmation of maternity leave from the company shall fill out the application form for the subsidy, and submit it to the Employment Support Center closest to the company or her residence.

4) No employer shall schedule a pregnant female to work overtime, and, if there is a request from the worker, the employer shall give her light duties only.

24. An employer shall, upon request by a female worker, grant menstruation leave one day per month.

※ *Punishable by a fine not to exceed five million WON*

Menstruation Leave (Article 73 of the LSA)

25. No employer shall dismiss a worker without justifiable reason. If an employer intends to dismiss a worker, the employer shall notify the worker in writing of the reasons for dismissal and the date of such dismissal.

Restrictions on Dismissal (Articles 23 and 27 of the LSA)

1) No employer shall dismiss, lay off, suspend, or transfer a worker, or reduce wages, or take other punitive measures against a worker without justifiable reason. No employer shall dismiss any worker during the following periods:

① During a period of temporary absence from work for medical treatment of an occupational injury or illness and within 30 days thereafter;

② During a period of temporary absence from work before and after childbirth as provided herein and within 30 days thereafter, and

③ During childcare leave (If an employer's action is found to be in violation of the above, it is punishable by imprisonment of up to five years, or by a fine not to exceed thirty million won.).

26. No employer shall dismiss any worker during a period of temporary interruption of work for medical treatment of an occupational injury or disease and within 30 days thereafter.

※ *Punishable by imprisonment of up to five years, or by a fine not to exceed thirty million won*

Prohibition of dismissing a worker who has an occupational injury or disease (Article 23)

No employer shall dismiss any worker during a period of temporary interruption of work for medical treatment of an occupational injury or disease and within 30 days thereafter. Provided that if an employer has paid lump sum compensation pursuant to Article 84 hereof or is not able to continue his business, this shall not apply.

27. No employer shall dismiss any female worker during a period of temporary interruption of work before and after childbirth as provided herein and within 30 days thereafter.

※ *Punishable by imprisonment of up to five years, or by a fine not to exceed thirty million won*

Prohibition of dismissing a pregnant worker before and after childbirth (Article 23)

No employer shall dismiss any female worker during a period of temporary interruption of work before and after childbirth as provided herein and within 30 days thereafter. Provided that if an employer is not able to continue his business, this shall not apply.

28. An employer shall give advance notice of at least thirty days before dismissing a worker. If notice is not given thirty days before dismissal, ordinary wages of more than thirty days shall be paid to the worker.

※ *Punishable by imprisonment of up to two years, or by a fine not to exceed ten million won*

Advance Notice of Dismissal (Article 26 of the LSA)

Exceptions for Advance Notice of Dismissal (Article 35 of the LSA)

1) A worker who has been employed on a daily basis for less than three consecutive months;
2) A worker who has been employed for a fixed period not exceeding two months;
3) A worker who is paid monthly but has worked for less than six months;
4) A seasonal worker who has been employed for a fixed period not exceeding six months; or
5) A worker still in the employment probation period.

29. An employer ordinarily employing ten workers or more shall prepare a set of Rules of Employment (ROE) and file it with the Minister of Labor.

※ *Punishable by a fine not to exceed five million won*

Preparation and Filing of Rules of Employment (ROE) (Article 93 of the LSA)

Contents of Rules of Employment (ROE)

① matters pertaining to the starting and finishing time of work, recess hours, holidays, leaves and shifts;

② matters pertaining to the determination of wages, calculation of wages, means of payment, closing of payment, time of payment and wage increase;

③ matters pertaining to calculation of family allowances and means of payment;

④ matters pertaining to retirement;

⑤ matters pertaining to retirement pay as prescribed in Article 4 of the Employee Retirement Benefit Security Act, bonuses and minimum wages;

⑥ matters pertaining to meal allowances and allocation of expenses for operational tools or necessities;

⑦matters pertaining to educational facilities for workers;

⑧ matters pertaining to the maternity protection of female workers, such as maternity leave, child-care leave, etc., and support for reconciliation between work and family life;

⑨ matters pertaining to safety and health;

⑩ matters pertaining to the improvement of workplace environment according to workers' characteristics, such as gender, age or physical attributes;

⑪ matters pertaining to support pertaining occupational or non-occupational accidents;

⑫ matters pertaining to awards and punishments; and
⑬ other matters applicable to all workers of the business.

30. If any amendments to the Rules of Employment (ROE) occur, the employer shall file the amendments with the Minister of Labor.
※ *Punishable by a fine not to exceed five million won*

Preparation and filing of Rules of Employment (ROE), and procedure for revisions (Article 93 and Article 94 of the LSA):

1) If the Rules of Employment (ROE) are to be modified unfavorably to workers, the employer shall obtain all the workers' consent, if there is no labor union composed of the majority of the workers, with regard to the preparation of and or amendment to the Rules of Employment (ROE).
2) An employer shall seek consultation of a labor union if there is a labor union that is composed of the majority of the workers in the workplace concerned, or the consultation of the majority of workers.

II. Employment Retirement Benefit Security Act

31. If a retirement benefit scheme is set up, no differentiation shall be made within the same business with regard to the application, etc., of the methods of calculating benefits and contributions.
※ *Punishable by imprisonment of up to two years, or by a fine not to exceed ten million won*

Prohibition of Setting up a Discriminative Retirement Benefit Scheme: Article 4 (Establishment of Retirement Benefit Scheme)

32. An employer may, if a worker requests the payment for any of the reasons, such as housing purchases, etc., pay the worker the amount of retirement pay corresponding to his/her consecutive service period earlier than his/her retirement.

Restriction for an interim retirement benefit (Article 8)

(1) An employer who intends to set up a retirement pay system shall set up the system that makes it possible to pay a retiring worker 30 days or more of the average wages for each year of his/her consecutive service as retirement pay.

(2) Notwithstanding paragraph (1), an employer may, if a worker requests the payment for any of the reasons prescribed by the Presidential Decree, such as housing purchases, etc., pay the worker the amount of retirement pay corresponding to his/her consecutive service period earlier than his/her retirement. In such cases, the consecutive service period to be used for the calculation of the amount of retirement pay accumulated thereafter shall be reckoned anew from the time when the balances are settled.

Enforcement Decree (Article 3) of the ERPS Act (Reasons for Interim Severance Pay)

1. Where an employee who has not owned a house has purchased a house in his/her own name; 2. Where an employee who has not owned a house makes a "key money" deposit (according to Article 303 of the Civil Act) or a security deposit (according to Article 3-2 of the Housing Lease Protection Act) for the purpose of moving into a residence. In this case the employee can only apply for the retirement pension one time during employment in a company or business;
3. Where an employee, employee's spouse according to Article 50 (Paragraph 1) of the Income Tax Act, or his/her dependent family member has received medical care for six months or more;
4. Where an employee has been declared bankrupt under the Debtor Rehabilitation and Bankruptcy Act within five years from the time of providing the retirement reserve as collateral;
5. Where an employee has received a decision for commencement of a rehabilitation proceeding under the Debtor Rehabilitation and Bankruptcy Act within five years from the time of providing the retirement reserve as collateral;
6. Where wages are decreasing due to the Wage Peak System according to rules from Paragraph 1 ~ 3 of Article 28 (1) of the Enforcement Decree of the Employment Insurance Act; and
7. Where other reasons and conditions prescribed by Ordinance of the Ministry of Employment and Labor, such as natural disasters, etc., are met.

33. When an employee retires or resigns, the employer shall, within 14 days, pay a sum equal to 30 days or more of average wages for each year of consecutive service.

※ *Punishable by imprisonment of up to three years, or by a fine not to exceed twenty million won*

Payment of Retirement Pay (Article 9)

1) If a worker retires, the employer shall pay retirement pay to the worker within 14 days from the date on which there occurs a cause for the payment : Provided that in special circumstances, the date of payment may be put off under agreement between the parties concerned.

2) In cases where the employer has used 4 employees or less, statutory severance pay is given differently. For the period from December 1, 2010 to December 31, 2012, 50% will be paid, and for the period since January 1, 2013, 100% of severance pay will be given.

34. An employer who intends to set up a defined benefit retirement pension plan (or a defined contribution retirement pension plan) shall prepare defined benefit (or defined contribution) retirement pension rules containing the following matters after obtaining the consent of (in case of the companies that were founded since July 27, 2012, hearing opinions from), the workers' representative, and report them to the Minister of Employment and Labor.

※ *Punishable by a fine for negligence not to exceed five million WON*

Defined Benefit (Defined Contribution) Retirement Pension Plan: Article 13 and 19

1) Defined Benefits Retirement Pension Rules should contain the following items:

1. Matters concerning the selection of a retirement pension trustee; 2. Matters concerning pension holders; 3. Matters concerning a period of contribution; 4. Matters concerning the level of benefits; 5. Matters concerning the securing of the ability to pay benefits; 6. Matters concerning types of benefits and eligibility requirements for recipients, etc.; 7. Matters concerning the conclusion and termination of a contract to carry out operational management services under Article 28 and asset management services under Article 29 and the transfer of the contract following its termination; 8. Matters concerning the notification of the current state of operation; 9. Matters concerning the occurrence of a cause for the payment of benefits, such as the retirement of a pension holder, and procedures for the payment of benefits; 10. Matters concerning reasons and procedures, etc., for the abolition and suspension of a retirement pension plan; and 11. Other matters prescribed by the Presidential Decree to operate a defined benefit retirement pension plan.

1) Defined Contribution Retirement Pension Rules should contain the following items:

1. Matters concerning the allocation of contributions; 2. Matters concerning the payment of contributions; 3. Matters concerning the management of reserves; 4. Matters concerning the methods of managing reserves, the provision of information, etc.; 5. Matters concerning early withdrawal; 6. Matters relating to subparagraphs 1 through 3 and 6 through 10 of Article 13; and 7. Other matters prescribed by the Presidential Decree to operate a defined contribution retirement pension plan.

35. An employer shall have the retirement pension trustee pay a pension holder the full amount of benefits he/she is obligated to pay and within the limits of the reserves within fourteen days from the date on which there occurs a cause for the payment of benefits. (If the level of benefits paid by a retirement pension trustee falls short of the level of benefits, the employer shall pay the shortfall.)

A payment of benefits shall be made by transferring benefits to the individual retirement pension plan account designated by the pension holder.

Punishable by imprisonment of up to three years, or by a fine not to exceed twenty million won

Payment of Defined Benefits Retirement Pension Benefits (Article 17)

(1) An employer shall have the retirement pension trustee pay a pension holder the full amount of benefits (the amount calculated in proportion to the ratio of the amount to the amount of reserves in the cases, such as business bankruptcy, etc.) he/she is obligated to pay and within the limits of the reserves within fourteen days from the date on which there occurs a cause for the payment of benefits, such as the retirement of the pension holder : Provided that if there is a special circumstance, such as when assets in which the reserves of a retirement pension plan are invested are not sold in a short period of time, the payment date may be extended under agreement among employer, pension holder and retirement pension trustee.

(2) If the level of benefits paid by a retirement pension trustee falls short of the level of benefits, the employer shall pay the shortfall to the relevant worker within fourteen days from the date on which there occurs a cause for the payment of benefits. In such cases, if there is a special circumstance, the payment date may be extended under agreement between the parties concerned.

(4) A payment of benefits shall be made by transferring benefits to the individual retirement pension plan account designated by the pension holder: Provided that this shall not apply if there is any of the reasons prescribed by the Presidential Decree, such as when the pension holder retires after the age of 55 and receives benefits.

36. When the employee who belonged to the defined contribution retirement pension plan resigns, the employer shall pay delayed contribution and interest on delayed payment within fourteen days from the date on which there occurs a cause for the payment of benefits

※ *Punishable by imprisonment of up to three years, or by a fine not to exceed twenty million won*

Payment of Defined Contribution Retirement Pension Benefits (Article 20)

(1) An employer who has set up a defined contribution retirement pension plan shall pay in cash contributions amounting to one twelfth or more of the total annual wages of a pension holder into the account of the pension holder under the defined contribution retirement pension plan.

(2) An employer shall regularly pay contributions into the account of the pension holder under the defined contribution retirement pension plan at least once every year. In such cases, if the employer fails to pay contributions until the set date (the extended date in case where the defined contribution retirement pension rules allow the payment date to be extended), he/she shall pay interest on delayed payment at an interest rate in consideration of the late payment interest rate (10% for the period from the delayed date to 14 days after resignation; 20% for the period after 14 days.)

<Reasons for Exclusion from Application of Late Payment Interests>

1. Cases falling under any of the subparagraphs of Article 4 of the Enforcement Decree of the Wage Claim Guarantee Act;

2. In cases where it is difficult to secure enough funds to pay wages and retirement pay due to the constraints of laws, such as the Debtor Recovery and Bankruptcy Act, the National Finance Act, the Local Government Act, etc.;
3. In cases where it is deemed appropriate for the courts or the Labor Relations Commission to deal with the issue of whether all or part of the wages and retirement pay whose payment is delayed exists or not; and
4. In cases where there are other reasons equivalent to those prescribed in paragraphs(1) through (3).

37. An employer who has set up a retirement pension plan shall provide education to the pension holders at least once every year about matters, such as the operating status of the retirement pension plan of the business concerned.

※ *Punishable by a fine for negligence not to exceed ten million WON*

Duties of Employers (Article 32)

An employer who has set up a retirement pension plan (excluding an individual retirement pension plan) shall provide education to the pension holders at least once every year about matters prescribed by the Presidential Decree, such as the operating status of the retirement pension plan of the business concerned. In such cases, the employer may entrust the retirement pension trustee to provide such education.

III. Minimum Wage Act

38. Employers shall pay their workers wages not less than the minimum wage

※ *Punishable by imprisonment of up to three years, or by a fine not to exceed twenty million won*

Effect of minimum wage (Article 6 of the Minimum Wage Act)

(1) Minimum wage per hour 5,210 won as of 2014; Daily wage (for eight hours): 41,680 won as of 2014

(2) Minimum wage can be lowered for the following:

① A person employed on probation and for whom less than three months have passed since the beginning of the probationary period; and

② A person engaged in surveillance or intermittent work and for whom the employer has obtained

approval of the Minister of Employment and Labor.

39. An employer shall inform workers of the minimum wage by displaying it in areas easily visible to workers, or by other appropriate means.

※ *Punishable by a fine not to exceed one million won*

Obligation to Give Notice of Details (Article 11 of the Minimum Wage Act)

Details of the minimum wage to be made known to workers:

① Minimum wage for workers;

② Wages not included in the calculation of minimum wage;

③ Categories of workers excluded from application of the minimum wage;

④ Day, month, and year the minimum wage takes effect.

Ⅳ. Equal Employment and Work-Home Balance Assistance Act

40. Employers shall conduct employee education one or more times per year to prevent sexual harassment at the work place. The employer and the employee shall receive the training.

※ *Punishable by a fine for negligence not to exceed three million WON*

The Equal Employment and Work-Home Balance Assistance Act (EEA). (Article 13)

41. Employers shall conduct employee education one or more times per year to prevent sexual harassment at the work place and preserve the related training document for the past three years.

Education to Prevent Sexual Harassment at Work (Article 12 and 13 of the EEA)

(1) No employer, superior or worker shall engage in sexual harassment at work. An employer shall conduct education in order to prevent sexual harassment at work and to create a safe working environment for workers.

(2) After amendment of this Act, the employer shall take this training unless the employer does not give the training directly.

(2) Details to be included in and requirements for sexual harassment prevention education:

① Laws and regulations regarding sexual harassment at work;

② Procedures for dealing with sexual harassment at the workplace concerned and criteria for measures thereof;

③ Grievance counseling and remedy procedures for victims of sexual harassment at the workplace concerned; and

④ Other matters necessary for the prevention of sexual harassment at work.

(3) The sexual harassment prevention education may be conducted through employee training sessions, or meetings depending on the size and type of the business. Providing sexual harassment prevention education simply by posting information, or other indirect dissemination of educational material, shall not be recognized as sexual harassment prevention education

42. An employer shall take without delay disciplinary measures or any other equivalent actions against the sexual harasser if an occurrence of sexual harassment at work has been verified. ※ *Punishable by a fine for negligence not to exceed five million WON*

Article 14 (Measures to Be Taken in case of Sexual Harassment at Work)

(1) An employer shall take without delay disciplinary measures or any other equivalent actions against the sexual harasser if an occurrence of sexual harassment at work has been verified.

(2) No employer shall dismiss or take any other disadvantageous measures against a worker who has been damaged with regard to sexual harassment at work or claimed damage occurred from sexual harassment.

43. No employer shall dismiss or take any other disadvantageous measures against a worker who has been damaged with regard to sexual harassment at work or claimed damage occurred from sexual harassment.

※ *Punishable by imprisonment of up to three years, or by a fine not to exceed twenty million won*

Protection of Sexual Victim Employees (Article 14 of the EEA)

44. If a person closely related to the duties, such as a client, etc., causes a worker to feel sexually humiliated or offended by sexual words, actions, etc., during the performance of duties, and such worker requests resolution of the grievances thereby, the employer shall make efforts to take all possible measures, such as the change of the place of work, relocation, etc.

※ *Punishable by a fine for negligence not to exceed five million WON*

Prevention of Sexual Harassment by Clients, etc. (Article 14-2 of the EEA)

45. Employers shall keep documents related to the matters for three years.

※ *Punishable by a fine not to exceed three million won*

Keeping of Related Documents (Article 33 of the EEA)

1) Documents concerning recruitment, hiring, wages, money and goods other than wages, training, deployment, promotions, retirement age, retirements and dismissals;
2) Documents concerning education to prevent sexual harassment at work;
3) Documents concerning measures taken against sexual harassment at work;
4) Documents concerning childcare leave; and
5) Documents concerning maternity leave

46. Employers shall not discriminate against men or women based on gender during any stage of hiring.

※ *Punishable by a fine not to exceed five million won*

Hiring (Article 7)

1) When hiring female workers, employers shall not demand certain physical requirements such as appearance, height, weight, or any other bodily trait, marital status, or other conditions determined by Ordinance of the Ministry of Labor, which are not required to perform the job for which the employer intends to hire.

2) The term "discrimination" means that an employer applies different conditions of employment or work to workers or takes other disadvantageous measures against workers (or potential workers) on account of gender, marital status, status within the family, pregnancy, or child-birth, without reasonable cause. This includes cases where the employer applies the same hiring or working conditions to males and females, but the numbers of one gender who can meet the conditions are considerably fewer than that of the opposite gender. If this causes disadvantageous results for either gender, and if the conditions applied cannot be justified as fair, it shall constitute discrimination.

47. Employers shall allow an employee with a child up to 8 years of age who is attending up to the 2nd grade of elementary school yet to take childcare leave to care for that child, upon application by that employee. (It is applicable to the baby who was born since January 1, 2008.)

※ *Punishable by a fine not to exceed five million won*

Childcare Leave (Article 19)

This rule is effective since January 14, 2014, and the baby who will be available is six years old or less (born after January 1, 2008).

1) The duration of childcare leave shall be one year or less.

2) An employer shall allow the employee who ended the childcare leave to return to the same job, which the employee used to do before the childcare leave, or to work paying the equivalent level of wages.

48. Employers shall allow an employee with a child up to 8 years of age who is attending up to the 2nd grade of elementary school yet to take reduced hours of work during to care for that child, upon application by that employee. (It is effective since August 1, 2012).

※ *Punishable by a fine not to exceed five million won*

Reduced hours of work during childcare period (Article 19-2)

(1) If a worker eligible to ask for childcare leave pursuant to Article 19 (1) requests working hour reduction (hereinafter referred to as “working hour reduction for childcare period”) instead of childcare leave, the employer shall grant it. However, in cases where it is not possible to hire his/her replacement personnel, where it cause a considerable difficulty for normal business operation, and where there are other cases stipulated in the enforcement decree.<Amended by Act No. 11279, Feb. 1, 2012>

(2) If the employer does not grant working hour reduction for childcare period under exceptional conditions of paragraph (1), he/she shall notify the worker of the reason in writing and have him/her take childcare leave or consult with the worker as to whether to support him/her through other measures. <Amended by Act No. 11279, Feb. 1, 2012>

(3) If the employer grants working hour reduction for childcare period to the relevant worker under paragraph (1), the working hours after reduction shall be 15 hours or more a week but sahll not exceed

30 hours a week.

(4) The period of working hour reduction for childcare period shall be one year or less.

(5) An employer shall not dismiss or give any other disadvantageous treatment to the relevant worker on account of working hour reduction for childcare period.

(6) After the period of working hour reduction for childcare period is over, the employer shall restore the worker to the same work or the work paying the same level of wages as before working hour reduction for childcare period.

(7) Necessary matters concerning methods, procedures, etc. of application for working hour reduction for childcare period shall be prescribed by the Presidential Decree.

Supporting Information

(1) Subsidy during childcare leave

1) Beneficiary: Any employee who has been insured by employment insurance for 6 months (180 days) or longer and who applies for maternity leave for more than 30 days
2) Subsidy: 40% of the employee's average wage: minimum 500,000 won, and maximum 1 million Won per every month during childcare leave
3) Application: From one month after implementing childcare leave to 12 months after finishing childcare leave.
4) How to apply: The employee receives a confirmation of childcare leave from the employer, fills out the application form of childcare leave subsidy, and applies to the Employment Support Center close to the workplace or his/her residence.

(2) Promotion subsidy of childcare leave

1) Requirements: When the employer grants childcare leave (reduced hours of work during childcare period) of 30 days or more to an employee and maintains his/her employment for 30 days or more after returning from the childcare leave (reduced hours of work during childcare period)
2) Subsidy: 100,000 won monthly per person during the employee's childcare period (reduced hours of work during childcare period). However, 200,000 won monthly subsidy will be given for the employees of preferential companies.

(3) Subsidy for hiring replacement personnel

1) Requirements: When the employer hires a replacement personnel for 30 days or more from more than 30 days prior to the childcare leave (or from the childcare leave)
2) Subsidy: 300,000 won monthly per person (monthly 600,000 won for preferential companies) will be paid for hiring replacement personnel for the number of months from starting the first day of childcare leave to the final day of childcare leave.

49. An employer shall provide equal pay for work of equal value in the same business

※ *Punishable by imprisonment of up to three years, or by a fine not to exceed twenty million won*

Guarantee of Equal Opportunities (Article 8 of the EEA)

An employer shall provide equal pay for work of equal value in the same business.

1) The criteria for work of equal value shall be skills, efforts, responsibility and working conditions, etc., required to perform the work. And in setting the criteria, an employer shall listen to opinions of the member representing the workers at the grievance handling committee under the relevant laws.
2) Payment of different wages to employees by an objective and reasonable standard based on individual educational background, career experience, number of years of consecutive service, job title, etc., shall not be deemed as discrimination.

50. An employer shall not discriminate on grounds of gender in education, assignment, promotion and in providing welfare aside from wages.

※ *Punishable by a fine not to exceed five million WON*

Guarantee of Equal Opportunities (Article 9 and 10 of the EEA)

An employer shall not discriminate on grounds of gender in providing welfare, such as providing money, goods or loans, etc., in order to support the living of his/her workers aside from wages. Discrimination in education, assignment or promotion based on gender is also prohibited.

☞ Welfare aside from wages: complimentary or supplementary money such as house allowance, family allowance, travel allowance, commute allowance, Kimchi allowance and loan for purchase of house.

51. An employer shall not discriminate on grounds of gender in retirement age limit, retirement and dismissal of his/her workers.

※ *Punishable by imprisonment of up to five years, or by a fine not to exceed thirty million won*

Guarantee of Equal Opportunities (Article 11 of the EEA)

An employer shall not discriminate on grounds of gender in retirement age limit, retirement and dismissal of his/her workers.

52. If a worker requests leave on grounds of his spouse's childbirth, the employer shall grant him three days or more leave within five days. In this case, the first three days shall be paid. ※ *Punishable by a fine for negligence not to exceed five million WON*

Guarantee of Equal Opportunities (Article 18-2 of the EEA)

(1) (Effective from Aug. 2, 2012 (effective from Feb. 2, 2013 for businesses employing less than 300 employees.)) If a worker requests leave on grounds of his spouse's childbirth, the employer shall grant him three days or more leave within five days.

1) An employer shall allow leave days as requested by the worker when he request such leave days not exceeding 5 days for his spouse's childbirth. In this case, the first three days shall be paid. (The leave days should be more than three days though the worker has requested less than three days for leave.)

2) An employer shall not be obliged under the law to pay for leave days exceeding the first three days, however, subject to the Rules of Employment or Collective Agreement, employers may agree to pay for leave days exceeding the first three days.

(2) (Superseded rules applied before Aug. 2, 2012 (before Feb. 2, 2013 for businesses employing less than 300 employees)) If a worker requests leave on grounds of his spouse's childbirth, the employer shall grant him three days leave.

1) The leave may not be requested after the lapse of thirty days from the date when the worker's spouse gave birth.

2) In principle, an employer shall grant leave days as picked by a male worker to help meet his needs within thirty days from the date of birth.

3) An employer shall not be obliged under the law to pay for leave days exceeding the first three days, however, subject to the Rules of Employment or Collective Agreement, employers may agree to pay for leave days exceeding the first three days.

53. In cases where a worker needs to take care of his/her parents, spouse, children or parents-in-law on account of illness, accident, old age, etc., if the worker applies for leave to look after family, the employer shall grant it.

Support for Workers' Family Care, etc. Opportunities (Article 22-2 of the EEA)

▶ Unless otherwise prescribed in the Presidential Decree such as it is not possible to hire replacements or causes considerable difficulty for normal business operation, an employer shall

grant leave to employees requesting it. (Effective from Aug. 2, 2012 (Effective from Feb. 2, 2013 for businesses employing less than 300 employees.))

※ Instances where employers are not obliged to grant leave are as follows. (The Article 16-3 of Presidential Decree of the EEA)

1. In cases where a request if made by an employee with less than one year of service at the time of one day prior to the commencing date of such leave.
2. In cases where a family member such as parents, children, spouse or other relatives is able to look after the family in need of care, other than the employee requesting the leave.
3. In cases where an employer has failed to find a replacement for fourteen days or longer after applying to a hiring agency for recruit. If an employer refuses to hire a person recommended by the head of a hiring agency without a justifiable reason twice or more, the employer shall not be exempt from the obligation of providing the leave.
4. In cases where a family care leave is anticipated to cause a material damage to normal operation of an employer's business and the employer substantiates it.

54. An employer shall not discriminate on grounds of age in recruitment, employment, etc.

Recruitment, Employment, etc. (Act on Prohibition of Age Discrimination in Employment and Aged Employment Promotion)

▶ An employer shall not, without a justifiable reason, discriminate on grounds of age in recruitment, employment, wages, money aside from wages, welfare, education, training, assignment, transfer, promotion, retirement age limit, retirement and others.

☞ Direct discrimination refers to treatment unfavorable to one group against the other group of similar characteristics except for biological age without a justifiable reason. Indirect discrimination refers to a condition which in effect contributes to unfavorable treatment to a certain age group against the other age groups by applying a criterion outwardly irrelevant to ages.

※ Following instances do not constitute an act of age discrimination

1) Where a certain age limit is inevitably required in consideration of the characteristic of the duties
   - Setting an age ceiling for a role of an adolescent in a performance or a movie
2) Reasonable differentiation based on length of service.
   - In cases where a difference in the length of service of an employee reflects job competencies, degree of job responsibility or job performance.
3) Establishing retirement age limit pursuant to laws

- Setting a retirement age limit in compliance with law is considered to be outside the area of discrimination in Korea.

4) Implementation of measures to support employment of certain age group backed by administrative policy.

- Measures taken to improve existing age discrimination on certain age group or preferential treatment for the purpose of integration of occupational, social divide (promotion of recruitment and protection of employment) do not come under age discrimination.

55. An employer shall set up a Labor-Management Council and submit bylaws to the head of district labor office after establishment or revision of the bylaws.

Anyone who refuses or hinders to establish LMC shall be punishable by penalty fine not exceeding 10million won

No submission of the bylaws: Punishable by a fine for negligence not to exceed two million won

Enforceable to business or workplace employing 30 workers or more

Establishment of Labor-Management Council (Article 4 and 18 of the Act on the Promotion of Worker Participation and Cooperation)

▶ A business or workplace ordinarily employing 30 or more workers shall establish a Labor-Management Council, and submit bylaws to the minister of the Ministry of Employment and Labor within 15 days from the date of the establishment. A LMC shall be established in each business or workplace which is vested with the right to decide working conditions.

※ Items to determine in the bylaws of LMC

∆ Number of council members ∆ Matters concerning the procedures for election of workers' members and the registration of candidates ∆ Matters concerning qualifications for employers' members ∆ Matters concerning hours regarded as hours worked by council members ∆ Matters concerning the calling of meetings, sessions and operation, etc. of LMC ∆ Matters concerning method and procedures for voluntary arbitration ∆ Matters concerning the number of grievance handling members and the handling of grievances

Ⅴ. Act on the Promotion of Worker Participation and Cooperation

56. Meetings of Labor-Management Council shall be held periodically every three months. ※ *Punishable by a fine not to exceed two million WON*

Enforceable to business or workplace employing 30 workers or more

Composition and Operation of Labor-Management Council (Article 6, 7, 12 and 19 of the Act on the Promotion of Worker Participation and Cooperation)

(1) A council shall be composed of equal numbers of members representing the employer and members representing the workers, and each number shall be not less than three but not more than ten. A council shall have a chairperson and secretaries.

1) Members representing workers (hereinafter referred to as "workers' members") shall be elected by the workers, and if there is a labor union composed of a majority of workers, the representative of the labor union and persons appointed by the labor union shall be workers' members. The workers' members shall be elected by direct, secret and unsigned ballot.

2) A chairperson shall be elected by mutual vote from among members. In this case, each one from workers' members and employer's members may be a co-chairperson.

(2) Meetings of LMC must be held every three months and minutes shall be drawn up and be kept

※ Things to be provided in minutes of LMC meeting

△ Date, time and place of each meeting △ Members present at each meeting △ Contents of consultation and matters decided at each meeting △ Other matters discussed at each meeting

☞ Meeting minutes shall bear signatures/seals of all members present at the meeting and shall be kept for three years from the date they are taken.

57. A grievance handling committee shall be composed of not more than three members representing labor and management.

※ *Punishable by a fine not to exceed two million WON*

Enforceable to business or workplace employing 30 workers or more

Grievance Handling Committee members (Article 26 and 27 of the Act on the Promotion of Worker Participation and Cooperation)

(1) Businesses or workplace with 30 workers or more shall have a grievance handling committee composed of less than three members representing labor and management in order to hear and handle workers' grievances.

(2) If a member of a grievance handling committee hears from a worker about grievances, he/she shall inform the worker concerned of the measures taken and other results of handling within ten days. Matters deemed difficult for members of a grievance handling committee to deal with shall be brought before LMC and settled through consultation at its meeting. An employer shall not take any disadvantageous action against a grievance handling member in relation to the performance of his/her duties. The hours spent by a grievance handling member to consult about the handling of grievances or to handle grievances shall be regarded as hours worked.

58. A grievance handling member shall draw up and keep a ledger relating to the receipt and handling of grievances and preserve it for one year.

Enforceable to business or workplace employing 30 workers or more

Grievance Handling Committee members (Article 9 of the Act on the Promotion of Worker Participation and Cooperation)

A grievance handling member shall draw up and keep a ledger relating to the receipt and handling of grievances and preserve it for one year.

Ⅵ. Correction of discriminatory treatment for Fixed-term, Part-time, Dispatched workers

59. An employer, sending employer or using employer shall conform to a confirmed correction order of discriminatory treatment from a Labor Relations Commission or court.
Punishable by a fine for negligence not to exceed 100 million won

Correction of Discriminatory Treatment (From Article 8 to 14 of the Act on the Protection, Etc. of Fixed-Term and Part-Time Employees, Article 21 of the Act on the Protection, Etc., of Dispatched Workers)

(1) An employer shall not treat a non-regular worker(fixed-term, part-time and dispatched worker) in a discriminatory manner in comparison with a worker who performs the same work in the

business of the employer in terms of wages, periodic bonus, holiday bonus, performance bonus and other working conditions, welfares, etc., without a justifiable reasons. (Article 8 of the Act on the Protections, Etc., of Fixed-Term and Part-Time Employees, Article 21 of the Act on the Protection, Etc., of Dispatched Workers)

(2) If a non-regular worker has received discriminatory treatment, he/she may file a request for corrections with the Labor Relations Commission within three months from the date of such treatment. (Paragraph(1) of Article 9 of the Act on the Protections, Etc., of Fixed-Term and Part-Time Employees, Article 21 of the Act on the Protection, Etc., of Dispatched Workers)

☞ Filing period has extended from three months to six months from the date of discriminatory treatment (Effective from Aug. 2, 2012)

(3) With regard to disputes relating to discriminatory treatment, the burden of proof shall be placed on employers. (Paragraph(4) of Article 9 of the Act on the Protections, Etc., of Fixed-Term and Part-Time Employees, Article 21 of the Act on the Protections, Etc., of Dispatched Workers)

(4) Upon receiving a request for correction, the Labor Relations Commission shall conduct, without delay, a necessary investigation and inquiry into the parties concerned.

☞ If the Labor Relations Commission judges that the treatment in question is discriminatory, it shall issue a correction order to the employer in writing specifying details of such correction order, compliance deadline, etc. (Article 10 and 12 of the Act on the Protections, Etc., of Fixed-Term and Part-Time Employees, Article 21 of the Act on the Protection, Etc., of Dispatched Workers)

(5) An employer, sending employer or using employer dissatisfied with a correction order may make a request for reexamination to the National Labor Relations Commission with 10 days of receiving the notice of such correction order and may bring an administrative lawsuit against the decision made by the National Labor Relations Commission within 15 days.

☞ If no request for reexamination is made within the period above, the correction order or reexamination decision shall be confirmed as final. (Article 14 of the Act on the Protections, Etc., of Fixed-Term and Part-Time Employees, Article 21 of the Act on the Protection, Etc., of Dispatched Workers)

(6) Labor inspectors are granted administrative authority to correct discriminatory treatment. (Article 15-2 of the Act on the Protections, Etc., of Fixed-Term and Part-Time Employees, Article 21-2 of the Act on the Protection, Etc., of Dispatched Workers, Effective from Aug. 2, 2012)

1) If a discriminatory treatment is identified in the course of handling labor cases or workplace inspection, labor inspectors may demand the correction of such treatment and check the conformity with the demand.
2) In cases where the employer does not follow the demand for correction, the labor inspector shall inform the Labor Relations Commission, the employer and the worker concerned in writing of the fact specifying the details of the discriminatory treatment.
3) If the Labor Relations Commission finds the treatment discriminatory after due investigation, it shall order a correction to the employer.

60. An employer shall not treat a non-regular worker(fixed-term, part-time and dispatched worker) in a discriminatory manner in comparison with a worker who performs the same work in the business of the employer in terms of wages, periodic bonus, holiday bonus, performance bonus and other working conditions, welfares, etc., without a justifiable reasons.

61. When an employer makes a labor contract with a fixed-term or part-time employee, he/she shall clearly state in writing the working conditions provided in the Article 17 of the Act on the Protections, Etc., of Fixed-Term and Part-Time Employees.

※ *Punishable by a fine for negligence not to exceed five million WON*

Working conditions to state in writing (Article 17)

① Matters concerning the contract period
② Matters concerning working hours and rest hours
③ Matters concerning components, calculation and payment methods of wages
④ Matters concerning holidays and leave
⑤ Matters concerning the place of work and jobs to do
⑥ Work days and working hours of each work day (application limited to part-time workers)

62. If an employer intends to have a part-time employee in excess of the contractual working hours, he/she shall obtain consent from the relevant employee. In this case, the overtime hours shall not exceed 12 hours a week.

※ *Punishable by a fine not to exceed ten million WON*

(1) Use of Fixed-term Employees (Article 4)

An employer may employ a fixed-term employee for a period not exceeding two years, and the fixed-term employee shall be considered as a worker who has made a non-fixed term labor contract, if an employer employs a fixed-term employee for more than two years unless otherwise laws permits.

(2) Restrictions on Overtime Work of Part-time Employees (Article 6)

If an employer intends to have a part-time employee work in excess of the contractual working hours, he/she shall obtain consent from the relevant employee.

☞ The overtime hours cannot exceed 12 hours a week despite the consent from a part-time employee.

(3) Written Statement of Working Conditions (Article 17)

When an employer makes a labor contract with a fixed-term or part-time employee, he/she shall clearly state in writing working conditions stipulated by laws.

※ Matters to state in writing

△ Matters concerning the contract period △ Matters concerning working hours and rest hours △ Matters concerning components, calculation and payment methods of wages △ Matters concerning holidays and leave △ Matters concerning the place of work and jobs to do △ Work days and working hours of each work day (application limited to part-time workers)

63. An employer shall not dismiss or give any other unfavorable treatment to a part-time employee on the grounds that he/she has refused the employer's unfair demand for overtime work under paragraph (2) of Article 6.

※ *Punishable bv a fine not to exceed ten million WON*

Prohibition of Unfavorable Treatment (Article 16 of the Act)

▶ An employer shall not dismiss or give any other unfavorable treatment to a fixed-term or part-time employee on the grounds that he/she has committed any of the following acts:

△ Refusing the employer's unfair demand for overtime work △ Filing a request for correction of discriminatory treatment △ attending and making a statement at a Labor Relations Commission for correction of discriminatory treatment △ reporting failure to comply with a correction order △ giving notification to watch agency.

Ⅶ. Act on the Protection Etc., of Dispatched Workers

64. A using employer shall not be offered services by an unauthorized business entity and shall not assign dispatched workers to jobs not permitted for worker dispatch.
<Enforceable to using employers> ※ *Punishable by imprisonment of up to three years, or by a fine not to exceed twenty million* ***won***

Jobs Permitted for Worker Dispatch (Article 5)

(1) Jobs permitted for worker dispatch shall be 32 jobs considered suitable for that purpose given their nature or required professional knowledge, skills or experience, and prescribed by the Presidential Decree. Carrying out a worker dispatch business for areas in violation of jobs permitted or accepting worker dispatch service from a person incompliance with the regulation is prohibited.

(2) For the jobs not permitted for worker dispatch, sending or using dispatch worker is limited to particular occasions where a vacancy occurs due to childbirth, illness, injury, etc., or there is a need to temporarily or intermittently secure manpower. In this case, using employer shall have sincere consultation in advance with a person representing a majority of workers. However, under no circumstances the following jobs shall be considered as appropriate for worker dispatch:

☞ If a using employer uses a dispatch worker for jobs not permitted for worker dispatch, he/she shall directly employ the dispatched worker concerned. (Failure to comply comes with penalty)

※ Jobs not permitted for worker dispatch (Paragraph (3) of Article 5 of the Act, Paragraph (2) of Article 2 of the Presidential Decree of the Act.)

∆ Jobs performed at a construction site ∆ Stevedoring jobs for which worker supply services are permitted ∆ Seamen's jobs ∆ Harmful or hazardous jobs under the Occupational Safety and Health Act ∆ Dusty work ∆ Work subject to the issuance of health management pocketbooks under the Occupational Safety and Health Act ∆ The work of medical persons and the work of assistant nurses ∆ The work of medical technicians ∆ Driving work in a passenger vehicle transport business ∆ Driving work in a freight vehicle transport business

65. The length of dispatch shall not exceed one year. If there is agreement between the Sending Employer, the Using Employer, and the dispatch employee, the length of dispatch may be extended beyond one year. In any case, the total length of dispatch extension shall not exceed one year, and the total length of dispatch, including extensions, shall not exceed two years. If the Using Employer continues to use the dispatch employee beyond two years, he/she shall directly hire the dispatch employee as a regular employee without a fixed term of employment.

※ *Violation by the Using Employer: imprisonment of up to three years, or a fine not exceeding twenty million won*

※ *Failure to directly hire a dispatch employee beyond two years: Punishable by a fine not exceeding thirty million won*

Length of Dispatch Period (Article 6 of the Employee Dispatch Act)

1) The length of a dispatch period shall not exceed one year, except for when the case falls under Article 5 (2) (in cases where there is a vacancy due to childbirth, illness, injury, or other legitimate reasons or if there is the need to temporarily or occasionally secure labor).
2) If there is an agreement between the sending employer, the using employer, and the dispatched worker, the period may be extended. In this case, the extended period, if extended once, shall not

exceed one year, and the total dispatch period, including the extended period, shall not exceed two years.

3) With regard to aged dispatched workers under subparagraph 1 of Article 2 of the Aged Employment Promotion Act, notwithstanding the latter part of the provision of paragraph (2) , the dispatch period may be extended for more than two years.

(2) The period of worker dispatch under Article 5 (2) (exceptional reasons)

1) The period of time required to resolve clear and objective causes of a shortage of

2) For a maximum of three months when there is a need to secure manpower on a temporary and intermittent basis. If the cause is not resolved and there is agreement between the Sending Employer, the Using Employer, and the dispatch employee, this three-month period may be extended once, and is not to exceed an additional three months.

(3) Obligation of Employment (Article 6-2)

1) If a using employer continues to use the dispatched worker in excess of two years (including violation of jobs not permitted and using a dispatched employee from an unauthorized dispatched company), he/she shall directly employ the dispatched worker concerned.

2) If a using employer directly employs a dispatched worker, working conditions for the dispatched worker shall be as follows

① If among workers employed by the using employer, there is a worker performing the same or similar kind of work the dispatched worker performs, working conditions prescribed in employment rules applicable to the worker shall apply to the dispatched worker; and

② If among workers employed by the using employer, there is no worker performing the same or similar kind of work the dispatched worker performs the level of working conditions for the dispatched worker shall not be lower than the level of existing ones for the dispatched worker.

66. In cases where the Sending Employer has not been able to pay the wages of a dispatch employee due to causes attributable to the Using Employer, the Using Employer shall be jointly liable with the Sending Employer.

< *Using Employers* **>** ※ *Punishable by imprisonment of up to three years, or by a fine not to exceed twenty million won*

Special Cases Relating to Application of the Labor Standards Act (Article 34)

Liability of the Using Employer

① In cases where a Using Employer breaches contract with a dispatch employee, or the provider of the dispatch employee, without justifiable reason; and

② In cases where a Using Employer fails to pay for a dispatch employee, as stipulated in the employee dispatch contract, without justifiable reason.

67. Using Employers shall explain and send without delay the results of such health examination to the sending employer in case where a using employer has conducted a health examination for a worker.

< *Using Employers* > ※ *Punishable by a fine for negligence not to exceed three million WON*

Special Cases Relating to Application of Occupational Safety and Health Act (Article 35)

(1) If a using employer has conducted a health examination for a worker during his/her dispatch period pursuant to Article 43 of the Occupational Safety and Health Act, he/she shall explain and send without delay the results of such health examination to the sending employer pursuant to Article 43 (6) of the same Act.

(2) If a sending employer has conducted a health, he/she shall explain and send without delay the results of such health examination to the using employer pursuant to Article 98 (2) of Enforcement Regulations of the Occupational Safety and Health Act.

68. A person who intends to carry out a worker dispatch undertaking shall obtain permission.

< *Sending employer*> ※ *Punishable by imprisonment of up to three years, or by a fine not to exceed twenty million won*

Permission for Worker Dispatch Undertakings (Article 7 of the Act)

(1) A person who intends to carry out a worker dispatch undertaking shall obtain permission from the Minister of Employment and Labor as prescribed by the Ordinance of the Ministry of Employment and Labor. The same shall apply if any change is made to important matters, among permitted ones, which are prescribed by the Ordinance of the Ministry of Employment and Labor.

(2) If a person who has obtained permission for a worker dispatch undertaking pursuant to the former part of paragraph (1) intends to change permitted matters, other than important matters under the latter part of the same paragraph, he/she shall report such changes to the Minister of Employment and Labor as prescribed by the Ordinance of the Ministry of Employment and Labor.

(3) A using employer shall not be offered services by a person who carries out a worker dispatch undertaking in violation of paragraph (1).

69. Dispatch Period shall not exceed one year. If there is an agreement between the sending employer, the using employer and the dispatched worker, the period may be extended. The total dispatch period, including the extended period, shall not exceed two years. Provided however dispatched period for exceptional cases shall be determined separately.

<*Sending employer*> ※ *Punishable by imprisonment of up to three years, or by a fine not to exceed twenty million won*

Article 6 of the Employee Dispatch Act

70. A person who intends to continue to carry out a worker dispatch undertaking after termination of the valid period of permission shall obtain permission for renewal as prescribed by the Ordinance of the Ministry of Employment and Labor.
<Sending employer> ※ Punishable by imprisonment of up to three years, or by a fine not to exceed twenty million won

Article 8, 10 of the Employee Dispatch Act

71. While the Minister of Employment and Labor may cancel permission for a worker dispatch undertaking or order business to be suspended, dispatch business should be suspended.
< Sending employer > ※ Punishable by imprisonment of up to one year, or by a fine not to exceed ten million won

Article 12 of the Employee Dispatch Act

72. A sending employer shall not have others carry out a worker dispatch undertaking under his/her trade name
< Sending employer > ※ Punishable by imprisonment of up to three years, or by a fine not to exceed twenty million won

Article 15 of the Employee Dispatch Act

73. A sending employer shall prepare a business report and submit it to the Minister of Employment and Labor as prescribed by the Ordinance of the Ministry of Employment and Labor.
<Sending employer> *※ Punishable by a fine for negligence not to exceed three million WON*

(1) Permission for Worker Dispatch Undertakings & Valid Period of Permission (Article 7, 10 of the Employee Dispatch Act & Article 5 of Enforcement Regulations)

A person who intends to carry out a worker dispatch undertaking shall obtain permission from the Minister of Employment and Labor as prescribed by the Ordinance of the Ministry of Employment and Labor. A person who intends to continue to carry out a worker dispatch undertaking after

termination of the valid period of permission shall obtain permission for renewal 30 days advance from the expiry of validity.

(2) Prohibition of Name Lending (Article 15)

A sending employer shall not have others carry out a worker dispatch undertaking under his/her trade name.

(3) Report on Business (Article 18)

A sending employer shall prepare a business report and submit it to the Minister of Employment and Labor as prescribed by the Ordinance of the Ministry of Employment and Labor.

74. If a sending employer intends to dispatch a worker, he/she shall, in advance, notify in writing the worker concerned of working condition.
<Sending employer> ※ Punishable by imprisonment of up to one year, or by a fine not to exceed ten million won

Article 26 of the Employee Dispatch Act

75. A dispatched worker may ask the sending employer to provide detailed information on the price of worker dispatch
<Sending employer> ※ *Punishable by a fine for negligence not to exceed three million WON*

Article 26 of the Employee Dispatch Act

76. If a sending employer dispatches a worker, he/she shall give a notice of the name of the dispatched worker and other matters**.**
<Sending employer> ※ Punishable by a fine for negligence not to exceed three million WON

Article 27 of the Employee Dispatch Act

77. A sending employer shall appoint a person in charge of managing dispatch services.
A sending employer shall prepare and preserve a ledger for management of dispatch services for 3 years from the end date of dispatch.
< Sending employer > ※ Punishable by a fine for negligence not to exceed three million WON

Article 28 of the Employee Dispatch Act

Notification of Placement Conditions (Article 26)

▶If a sending employer intends to dispatch a worker, he/she shall, in advance, notify in writing the

worker concerned of the matters specified in each subparagraph of Article 20 (1) and other matters prescribed by the Ordinance of the Ministry of Employment and Labor.

▶ A dispatched worker may ask the sending employer to provide detailed information on the price of worker dispatch pursuant to Article 20 (1) 11.

Notice for Using Employer (Article 27)

▶If a sending employer dispatches a worker, he/she shall give a notice of the name of the dispatched worker and other matters prescribed by the Ordinance of the Ministry of Employment and Labor to the using employer.

Ledger for Management of Dispatch Services (Article 29)

In order to ensure proper employment management for dispatched workers, a sending employer shall appoint a person in charge of managing dispatch services from among those who are not subject to the reasons for disqualification referred to in subparagraphs of Article 8 & A sending employer shall prepare and preserve a ledger for management of dispatch services for 3 years from the end date of dispatch.

78. If a sending employer fails to pay wages to a dispatched worker due to causes attributable to the using employer, the using employer shall be jointly liable for that failure along with the sending employer

< Sending employer > ※ Punishable by imprisonment of up to three years, or by a fine not to exceed twenty million won

Article 34 of the Employee Dispatch Act

79. If a using employer has conducted a health examination for a worker during his/her dispatch period, he/she shall explain and send without delay the results of such health examination to the sending employer.

< Sending employer > ※ Punishable by a fine for negligence not to exceed three million WON

Article 35 of the Employee Dispatch Act

80. A person who dispatches a worker to be employed for work harmful to public health or public morality shall be prohibited.

< Sending employer> ※ Punishable by imprisonment of up to five years, or by a fine not to exceed thirty million won

Article42 of the Employee Dispatch Act

Protection of Motherhood

I. Understanding Motherhood Protection

The Korean government is taking steps to protect motherhood through specific provisions stipulated by the Constitution of the Republic of Korea[1] as well as other practical provisions stipulated by various labor laws. Despite these protection laws, the birthrate has decreased to an average of just 1.19 persons per couple as of 2013, and the government has strengthened its efforts in response towards revising labor laws designed to promote workforce participation by women and also increase the birthrate. I present here a summary of the most recent laws and revisions concerning protection of and support for motherhood.

II. Protection of Maternal Employees

A "maternal employee" refers to a woman who is pregnant or is within her first year after childbirth, and is therefore provided special protection under the various laws so designed.

1. Employment in hazardous/dangerous work prohibited

Employers shall not assign maternal employees to mentally and physically hazardous work. In addition, they shall not assign women aged 18 or older who are not pregnant to work that is hazardous to their possible future pregnancy and/or childbirth. Occupations that are prohibited are described in the attached Table 4 of the Presidential Decree (Article 65 of the LSA (Labor Standards Act)).

2. Restrictions on extended work, night work and holiday work

(1) Extended work

Employers shall not place pregnant female employees on overtime duty or flexible work, and, in the event of such a request from the employee, she shall be assigned light duties. Employers shall not permit women who have had less than one year since childbirth to work more than 2 hours in overtime per 8-hour work day, and 6 hours per work week of 40 hours, even if so agreed in a collective agreement (Article 51, 71, 74 of the LSA).

(2) Night work and holiday work (Article 70 of the LSA)

Employers shall not assign maternal employees to work at night (from 10 P.M to 6 A.M.) or on holidays. However, exception to such restrictions on night work and holiday work are possible in cases where the employer obtains permission in advance from the Minister of Employment & Labor and 1) there is consent from the employee with less than one year since childbirth; or 2) a pregnant woman makes such a request.

[1] Constitution of the Republic of Korea (Article 36, Subparagraph 2): The State shall endeavor to protect mothers.

3. Protection leave for maternal employees

(1) Maternity leave

Employers shall grant pregnant female employees 90 days of maternity leave (120 days if a woman is pregnant with two or more babies), to be used before and after childbirth. In such cases, a minimum of 45 days (60 days for multiple babies) shall be allocated after childbirth. At the end of the maternity leave, the employer shall allow the female employee to return to the same work, or other work at the same rate of pay, as before the leave. The first 60 days (75 days for multiple babies) of leave shall be paid leave. The remaining 30 days (or 45 days for multiple babies) qualify for reimbursement of up to 1.35 million won (2.025 million won for multiple babies) through employment insurance, provided, that for companies[2] eligible for preferential support, the employee concerned will receive the first 60 days' maternity leave allowance (up to 1.35 million won per month) from employment insurance. In this case, the employer will pay the amount of the ordinary wage exceeding the government subsidy (Article 74 of the LSA).

***** Amount of Maternity Leave Benefits for Companies Eligible for Priority Support

1. Maximum amount: 4.05 million won (1.35 million won per month) in cases where the amount of ordinary wage corresponding to 90 days of maternity leave or miscarriage/stillbirth leave exceeds 4.05 million won, provided that in cases where the period of payment of maternity leave benefits, etc., is less than 90 days, the amount shall be calculated based on the number of actual leave days; and
2. Minimum amount: an amount equivalent to ordinary wage for the period of payment of the maternity leave benefits, etc., calculated using the hourly minimum wage as the hourly ordinary wage of the employee in cases where the hourly ordinary wages of the employee are lower than the hourly minimum wage applied on the beginning date of maternity leave or miscarriage/stillbirth leave in accordance with the Minimum Wage Act.

Employers shall not dismiss any female employee during a period of temporary interruption of work before or after childbirth as provided herein and within 30 days thereafter. For the purpose of calculating annual paid leave, the maternity leave shall be regarded as attended days. Also, in calculating the average wage for purposes of severance payment, the period of

[2] **Preferentially Supported Companies (Article 12 of the LSA Presidential Decree)**

Type of Industry (Classification code)	Number of Employees
1. Manufacturing (C);	500 persons or less
2. Mining (B); 3. Construction (F); 4. Transportation (H); 5. Publishing, filming, broadcasting, and IT services (J); 6. Facility management and company support services (N); 7. Professional, science and technology services (M); 8. Health and social security insurance services (Q).	300 persons or less
9. Wholesale and retail services (G); 10. Hotel and restaurant services (I); 11. Finance and insurance (K); 12. Art, sports, and other leisure-related services (R);	200 persons or less
13. Other businesses.	100 persons or less

maternity leave and the wage paid during the maternity period shall be deducted from the calculation of average wage required to be included in the period and wage.

(2) Advance maternity leave

In cases where an employee who is or was recently pregnant requests leave due to a miscarriage or other pregnancy-related reason, the employer shall allow her to take leave at any time prior to the expected due date. In any case, 45 or more continuous days (60 days for multiple babies) shall be provided after childbirth or miscarriage. Reasons for advance maternity leave are as follows (Article 74 of the LSA):

1) *In cases where a pregnant employee went through a miscarriage or stillbirth in the past;*
2) *In cases where a pregnant employee is over 40 years of age at the time of the request for a maternity leave; and*
3) *In cases where a pregnant employee submits a medical document issued by a hospital that describes the danger of miscarriage or stillbirth.*

(3) Maternity leave for miscarriage or stillbirth

At the request of a maternal employee who has suffered a miscarriage or stillbirth, the employer shall grant her leave for miscarriage or stillbirth, except where the miscarriage is the result of an artificially-induced abortion. If a maternal employee who has had a miscarriage or stillbirth asks for maternity leave, she must submit to the employer an application for miscarriage or stillbirth leave, providing the reason for the request for leave, the date of the miscarriage or stillbirth and the pregnancy period, along with a medical certificate issued by a medical organization. In cases of miscarriage or stillbirth, the employer shall pay the ordinary wage for the period given for maternity leave, just as with a normal maternity leave, as follows:

1) A pregnancy period of 11 weeks or less: five days from the date of miscarriage or stillbirth;
2) A pregnancy period of 12 weeks or more but less than 15 weeks: ten days from the date of miscarriage or stillbirth;
3) A pregnancy period of 16 weeks or more but less than 21 weeks: thirty days from the date of miscarriage or stillbirth;
4) A pregnancy period of 22 weeks or more but less than 27 weeks: sixty days from the date of miscarriage or stillbirth; and
5) A pregnancy period of 28 weeks or more: ninety days from the date of miscarriage or stillbirth.

(4) Reduced working hours during the pregnancy period

In cases where a maternal employee who is pregnant for 12 weeks or less or 36 weeks or more applies for reduced working hours, the employer shall allow it. Provided that the pregnant employee′s current working hours are less than 8 per day, the employer may reduce her working hours to 6 hours per day. The employer cannot reduce the wage of the employee due to the reduced working hours.[3] (Article 74 of the LSA)

[3] Enforcement date of reduced working hours during a pregnancy period:

(5) Allowing paid time off for prenatal examinations

If a pregnant female employee makes a request to take time off from work to receive a regular pregnancy health checkup, the employer shall allow her to do so. An employer shall not reduce an employee's wages on the grounds that she took time off for the relevant health checkup. The paid time off allowance for prenatal examinations is as follows: 1) one time per every two months up to the 7th month of pregnancy; 2) one time per month during the 8th and 9th months; 3) one time every two weeks during the 10th month or later (Article 74-2 of the LSA, Article 10 of the Protection of Motherhood Act).

4. Paternity leave

If an employee requests leave on the grounds of his spouse giving birth, the employer shall grant him leave of three days or more within five days. In this instance, the first three days′ leave shall be paid. The leave may not be requested after a lapse of thirty days from the date when the employee's spouse gave birth. (Article 18-2 of the Act on Equal Employment & Support for Work-Family Balance Assistance: hereafter referred to as the ′Equal Employment Act′).

5. Nursing Hours

A female employee who has an infant under twelve months of age shall be allowed to take paid nursing recesses, twice per day for at least 30 minutes each (Article 75 of the LSA).

III. Childcare Leave & Reduction of Working Hours for the Childcare Period

1. Childcare Leave (Article 19 of the Equal Employment Act, Article 10 and 11 of its Presidential Decree, Article 70 of the Employment Insurance Act):

Employers shall grant childcare leave if an employee asks for it to take care of his/her child (including an adopted child) aged 8 or under who is attending up to the 2nd grade of elementary school. This shall not apply in such cases where 1) an employee has offered continuous services in the business concerned for less than a year prior to the scheduled date of childcare leave, or 2) an employee′s spouse is on childcare leave for the same infant. An employee who intends to apply for childcare leave shall submit to his/her employer an application with documentation verifying the birth date of the infant to be cared for, not less than 30 days prior to the scheduled start date of leave. The childcare leave benefits from Employment Insurance shall be paid at a rate of up to 40/100 of the monthly ordinary wage, from a minimum of 500,000 won per month to a maximum of 1 million won per month.

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1. Business or workplace ordinarily employing 300 employees or more: September 24, 2014;
2. Business or workplace ordinarily employing less than 300 employees: March 24, 2016

The period of childcare leave shall be one year or less. The childcare leave can be used all at once or at two different times, up to a total period of one year. The period of childcare leave shall be included in the employee's continuous service period. Employers shall not dismiss or give any other unfavorable treatment to a employee on account of taking childcare leave, nor dismiss the employee concerned during the childcare-leave period; provided that this shall not apply if the employer is not able to continue operating his/her business. After the end of the childcare leave, the employer shall restore the employee to the same work as before the leave, or any other work paying the same level of wages. In calculating the attendance rate for the annual paid leave, the period of childcare leave shall be exempted for the contractual working hours, which means that the annual paid leave is only granted for the period of actual work, excluding the period of childcare leave.[4] The period of childcare leave for a fixed-term employee or a dispatched employee shall not be included in the employment period or the dispatched period.

2. Reduction of working hours for the childcare period

(Article 19 of the Equal Employment Act, Article 73-2 of the Employment Insurance Act):

If an employee eligible to ask for childcare leave requests a reduction of working hours instead of childcare leave, the employer shall grant it. However, the employer is not required to grant it in cases where it is not possible to hire replacement personnel, and where it causes a considerable difficulty for the normal operation of business If the employer does not grant the reduction of working hours for the childcare period, the employer shall notify the employee in writing of the reason for such decision, and have the employee take normal childcare leave or else consult with the employee as to whether to support him/her through other measures. Employers shall not apply unfavorable working conditions to an employee who works reduced working hours for the childcare period on grounds of the working hour reduction, except when applying them in proportion to the usual working hours.

The period of working hour reduction for the childcare period shall be one year or less. If the employer grants a reduction of working hours for the childcare period to the relevant employee, the working hours after reduction shall be a minimum of 15 hours per week but shall not exceed 30 hours per week. Employers shall not dismiss or give any other disadvantageous treatment to the employee on account of the working hour reduction. After the period of working hour reduction is over, the employer shall restore the employee to the original work or to other work paying the same level of wages as before the reduction of working hours.

[4] Government guideline: Labor Standards-4336, August 18, 2004.