

Security of Wage Payment Law

(Law No. 34 of May 27, 1976)

(Provisional translation by the specialist)

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Amendments

Law No. 85 of Nov. 19, 1980

Law No. 25 of May 8, 1984

Law No. 112 of Sep. 30, 1998

Law No. 87 of Jul. 16, 1999

Law No. 160 of Dec. 22, 1999

Law No. 124 of Nov. 22, 2000

Law No. 54 of May 31, 2002

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Supplementary Provisions

Chapter I. General Provisions

(Purpose)

Article 1. The purpose of this Law is to contribute to the stabilization of workers' livings by taking preservative measures for savings and protective measures for workers for whom it has become difficult to receive wage payments as a result of a serious hindrance to business activities, and other measures to secure wage payments, with the view of realizing the due payment of wages, etc., in cases where the management of enterprises has become unstable because of business fluctuations, changes in industrial structure and other conditions and in cases where workers leave their employment.

(Definitions)

Article 2. In this Law the term "wage" means wage as defined in Article 11 of the Labour Standards Law (Law No. 49 of 1947).

2. In this Law "worker" shall mean the workers provided for in Article 9 of the Labour Standards Law (Law No. 49 of 1947) (excluding persons employed in undertakings or offices employing only family members residing together and domestic employees).

Chapter II. Preservative Measures for Savings and Wages, etc.

(Preservative Measures for Savings)

Article 3. An employer (except State and local public bodies; hereinafter the same applies) who keeps in custody the workers' savings entrusted to him or her by the workers shall, in case the savings kept in custody are workers' deposits that have been accepted, except in cases as provided for by Ministry of Health,

Labour & Welfare Ordinance, take, in respect of the deposited amount accepted (meaning a deposit accepted by the employer concerned; hereinafter the same applies in this Article) as of the thirty first of March of every year, preservative measures for the savings for one year after that date (meaning the conclusion of a contract with a bank or other financial institution under which such institution guarantees the debt of repayment in respect of the amount deposited by each worker as of that day, or other measures for securing the repayment of the deposited amount that has been accepted, as provided for by Ministry of Health, Labour & Welfare Ordinance).

(Order Concerning Preservative Measures for Savings)

Article 4. The Chief of the Labour Standards Inspection Office may, in case the employer fails to take preservative measures for savings in violation of the provisions of the preceding Article, order the employer concerned to correct the practice, indicating the time limit, therefor, in accordance with Ministry of Health, Labour & Welfare Ordinance.

(Preservative Measures for Retirement Allowances)

Article 5. The employer (except employers who have concluded a retirement allowance mutual aid contract as provided for in Article 2, paragraph 3, of the Smaller Enterprise Retirement Allowance Mutual Aid Law (Law No. 160 of 1959) and other employers as provided for by Ministry of Health, Labour & Welfare Ordinance) shall, in case it has been made clear in the labour contract, the collective agreement, the rules of employment or another similar instrument that the employer shall pay retirement allowance to workers, endeavour to take measures corresponding to those provided for by Ministry of Health, Labour & Welfare Ordinance as referred to in Article 3, for the amount of money specified by Ministry of Health, Labour & Welfare Ordinance as the sum to be appropriated to the payment of

the retirement allowances concerned.

(Overdue Interest on Wages of Retired Workers)

Article 6. The employer shall, in case he or she did not pay the whole or a part of the wages (except retirement allowances; hereinafter the same applies in this Article) for a worker who has retired from the enterprise by the retirement day of that worker (in case the payment day for the wages is later than the retirement day, the payment day; hereinafter the same applies in this Article), pay to the worker concerned, as overdue interest, the amount obtained by multiplying the amount of wages unpaid after the retirement day by the rate, as fixed by Cabinet Order, within the limit of the yearly rate of 14.6 percent, in respect of the period from the day following the retirement day to the day when the unpaid wages are actually paid and in accordance with the number of days of the period.

2. In case the arrears of wages are due to natural disasters or other unavoidable circumstances as provided for by Ministry of Health, Labour & Welfare Ordinance, the provisions of the preceding paragraph shall not apply to the period during which such circumstances continue to exist.

Chapter III. Business of Payment of Unpaid Wages

(Payment of Unpaid Wages)

Article 7. In a case where an employer engaged in an undertaking (meaning, for undertakings to which the provisions of Article 8 of the Law concerning the Collection of Labour Insurance Premiums [Law No. 84 of 1969] apply, undertakings where the provisions of the same Article are deemed to not apply; hereinafter the same applies in this Article) which is an undertaking covered by worker's accident

compensation insurance (limited to a person having conducted the undertaking concerned for at least the period prescribed by Ministry of Health, Labour & Welfare Ordinance) is declared bankrupt or has come to fall under the cases provided for by Cabinet Order, the Government shall, when the payment of wages is in arrears (meaning wages not yet paid after the payment day; hereinafter the same applies in this and the following Article) for a worker (excluding workers who are insured workers under the provisions of Article 17 of the Mariners Insurance Law [Law No. 73 of 1939]) engaged in the undertaking concerned who left his employment in the undertaking concerned within the period provided for by Cabinet Order, notwithstanding the provisions of the proviso to paragraph 1, and of paragraph 2, of Article 474 of the Civil Code (Law No. 89 of 1986), perform, in lieu of such employer, such employer's obligation to pay the unpaid wages within the limit provided for by Cabinet Order, based on the request of said worker (in case of persons prescribed by Ministry of Health, Labour & Welfare Ordinance, limited to those workers who have received a confirmation by the Chief of the Labour Standards Inspection Office of the amount of the unpaid wages and other matters, as prescribed by Ministry of Health, Labour & Welfare Ordinance).

(Repayment, etc.)

Article 8. The Government may, in case there is a person who, under the preceding Article, has received the payment of the debt with respect to the unpaid wage by deceit or by other improper means, order such person to repay to the Government all or part of the amount received, and may also order such person to remit an amount not larger than that received by deceit or other improper means.

2. In a case under the preceding paragraph when the debt with respect to the unpaid wages has been paid based on a false report or

certification by the employer, the Government may order the employer to pay the amount which the person who received the payment of the debt with respect to the unpaid wages was ordered to repay or to remit under that paragraph, jointly and severally with that person.

3. The provisions of Articles 26 and 41 of the Law concerning the Collection of Premiums on Labour Insurance shall apply *mutatis mutandis* to the amount that was ordered to be repaid or remitted under the preceding two paragraphs.

4. The Government may, within the limits necessary to transact business concerning the repayment or remittal of the amount ordered to be repaid or remitted under paragraph 1 or 2, order the person falling under the provisions of paragraph 1 (including a person considered to fall under the same paragraph) or the employer to submit a report or documents on the amount of unpaid wages, the status of payment of wages and other items, in accordance with Ministry of Health, Labour & Welfare Ordinance.

(Relationship with the Workers Accident Compensation Insurance Law)

Article 9. The business as provided for in this Chapter shall be conducted as undertakings listed in Article 29 paragraph 1 item 4 of the Workers Accident Compensation Insurance Law (Law No. 50 of 1947)".

Chapter IV. Miscellaneous Provisions

(Chief of the Labour Standards Inspection Office and Labour Standards Inspectors)

Article 10. The Chief of the Labour Standards Inspection Office

and the Labour Standards Inspectors shall, in accordance with Ministry of Health, Labour & Welfare Ordinance, take charge of matters concerning the enforcement of this Law.

Article 11. In regard to crimes of violation of the provisions of this Law, the Labour Standards Inspector is authorized to exercise the right of a judicial police officer stipulated in the Criminal Procedure Law (Law No. 131 of 1948).

(Reports, etc)

Article 12. Except in cases otherwise provided for, the Directors of the Prefectural Labour Bureaus, the Chiefs of the Labour Standards Inspection Offices or Labour Standards Inspectors may, when they consider it necessary for the execution of this Law, have the employer, the worker and other persons concerned report on necessary matters or order them to appear, in accordance with Ministry of Health, Labour & Welfare Ordinance.

(On-the-Spot Inspection)

Article 13. A Labour Standards Inspector may, when he or she considers it necessary for the execution of this Law, enter the workplace, question the persons concerned or inspect records, documents and other articles.

2. The Chief of the Labour Standards Inspection Office may, when he or she considers it necessary for the confirmation of the matters referred to in Article 7, have one of the members of his or her staff enter the workplace of an employer referred to in that Article and question the persons concerned or inspect records, documents and other articles.

3. The Labour Standards Inspector and the staff member referred to in the preceding paragraph shall, in the case of the preceding two paragraphs, carry with them an identification card providing their status and show it to persons concerned.

4. The authority to enter and inspect as provided for in paragraphs 1 and 2 shall not be construed as that which has been recognized for the purpose of criminal investigation.

(Report by Worker)

Article 14. A worker may, when there is in fact a violation of this Law or regulations under this Law on the part of the employer, report that fact to a Director of a Prefectural Labour Bureau, a Chief of a Labour Standards Inspection Office or a Labour Standards Inspector and request them to take appropriate measures for its correction.

2. The employer shall not dismiss or otherwise treat disadvantageously a worker by reason of his or her having made a report under the preceding paragraph.

(Delegation to Ministry of Health, Labour & Welfare Ordinance)

Article 15. Procedures for the request mentioned in Article 7 and other necessary matters concerning the execution of this Law, other than those provided for in this Law, shall be prescribed by Ministry of Health, Labour & Welfare Ordinance.

(Specific Application to Mariners)

Article 16. With regard to mariners covered by the Mariners Law (Law No. 100 of 1947), matters within the authority of the Directors of the Prefectural Labour Bureaus, the Chiefs of the Labour Standards Inspection Offices or Labour Standards Inspectors, as provided for in this Law, shall be handled by the Directors of the District Transport Bureaus (including the Chiefs of the District Transport Supervision Departments) or Mariners' Labour Inspectors and the expression "Ministry of Health, Labour & Welfare Ordinance" in this Law (except in the provisions of Article 7, Article 8, paragraph 4 and the preceding Article) shall be read as "Ministry of Land, Infrastructure and Transport Ordinance"; the expression "an undertaking (meaning, for undertakings to which the provisions of

Article 8 of the Law concerning the Collection of Labour Insurance Premiums [Law No. 84 of 1969] apply, undertakings where the provisions of the same Article are deemed to not apply; hereinafter the same applies in this Article) which is an undertaking covered by worker's accident compensation insurance" in Article 7 shall be read as "an undertaking employing persons insured under Article 17 of the Mariners Insurance Law (Law No. 713 of 1939) (except insured persons who are members of an association as provided for in Article 15 paragraph 1 of the same Law)"; the expression "excluding workers who are insured workers" in the same Article shall be read as "limited to workers who are insured workers (excluding insured persons who are members of an association provided for in Article 15 paragraph 1 of the same Law)"; the expression "persons prescribed by Ministry of Health, Labour & Welfare Ordinance" in the same Article shall be read as "persons prescribed by Ministry of Health, Labour & Welfare Ordinance and Ministry of Land, Infrastructure and Transport Ordinance"; the expression "as prescribed by Ministry of Health, Labour & Welfare Ordinance" in the same Article shall be read as "as prescribed by Ministry of Health, Labour & Welfare Ordinance and Ministry of Land, Infrastructure and Transport Ordinance"; the expression "Workers Accident Compensation Insurance Law" in the title of Article 9 shall be read as "Mariners Insurance Law"; the expression "services listed in Article 29 paragraph 1 item 4 of the Workers Accident Compensation Insurance Law (Law No. 50 of 1947)" in the same Article shall be read as "services provided for in Article 57-2 paragraph 3 of the Mariners Insurance Law" and the expression "Ministry of Health, Labour & Welfare Ordinance" in the preceding Article shall be read as "Ministry of Land, Infrastructure and Transport Ordinance (Ministry of Health, Labour & Welfare Ordinance with respect to matters

provided for in the preceding Chapter)".