

**Law Concerning the Succession of Labour
Contracts, Etc. upon the Divisive
Reorganization of Company**

(Law No.103 of May 31, 2000)

(Provisional Translation)



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Law Concerning the Succession of Labour Contracts, Etc. upon the Divisive Reorganization of Company

Law No. 103, promulgated May 31, 2000

(Purpose)

Article 1. The purpose of this law is to promote the protection of workers by prescribing exceptions, etc. to the Commercial Code (Law No. 48 of 1899) and the Limited Liability Company Law (Law No. 74 of 1938) concerning succession, etc. to labour contracts in cases where a company is divisively reorganized.

(Notification)

Article 2. When conducting a formational-divisive reorganization or an assimilative-divisive reorganization pursuant to the provisions of Book 2, Chapter 4, Clause 6-3 of the Commercial Code or Chapter 6 of the Limited Liability Company Law (hereinafter referred to as "divisive reorganization"), a company (this shall mean a corporation or a limited liability company; the same shall apply hereinafter) shall, on or before the day two weeks before the day of the general meeting of shareholders or general meeting of members (hereinafter referred to as "general meeting of shareholders, etc.") that approves the divisive reorganization plan provided for in Article 374, Paragraph 1 of the Commercial Code (including cases where it is applied mutatis mutandis in Article 63-6, Paragraph 1 of the Limited Liability Company Law) or the divisive reorganization agreement provided for in Article 374-17, Paragraph 1 of the Commercial Code (including cases where it is applied mutatis mutandis in Article 63-9, Paragraph 1 of the Limited Liability Company Law) (hereinafter referred to as "divisive reorganization plan, etc."), concerning said divisive reorganization, notify the following workers in writing of whether there is any statement in the divisive reorganization plan, etc. concerned to the effect that the company that is formed by the divisive reorganization concerned or that succeeds to the company's business (hereinafter referred to as "formed company, etc.") will succeed to the labour contract that the company and workers concerned have entered into, the deadline date prescribed in Article 4, Paragraph 1, and any other matters prescribed by Ordinance of the Ministry of Health, Labour and Welfare:

- i. a worker that the company concerned employs and that is prescribed by Ordinance of the Ministry of Health, Labour and Welfare as primarily engaged in the business that the formed company, etc. will succeed to; and
- ii. a worker that the company concerned employs (except one mentioned in the preceding item) and with respect to whom there is a statement in the divisive reorganization plan, etc. concerned to the effect that the formed company, etc. will succeed to the labour contract that the company concerned and that worker have entered into.

2. If a company conducting the divisive reorganization provided for in the preceding paragraph (hereinafter referred to as "divisively reorganizing company") has entered into a collective agreement with a trade union prescribed in Article 2 of the Trade Union Law (Law No. 174 of 1949) (hereinafter referred to simply as "trade union"), the divisively reorganizing company shall, on or before the day two weeks before the day of the general meeting of shareholders, etc. that approves the divisive reorganization plan, etc., concerning said divisive reorganization, notify the trade union concerned in writing of whether there is any statement in the divisive reorganization plan, etc. concerned to the effect that the formed company, etc. will succeed to the collective agreement concerned and any other matters prescribed by Ordinance of the Ministry of Health, Labour and Welfare.

3. With respect to the application of the provisions of the preceding two paragraphs in the cases prescribed in Article 374-6, Paragraph 1 and Article 374-22, Paragraph 1 of the Commercial Code, the phrase, "on or before the day two weeks before the day of the general meeting of shareholders or general meeting of members (hereinafter referred to as "general meeting of shareholders, etc.") that approves" in Paragraph 1 and the phrase, "on or before the day two weeks before the day of the general meeting of shareholders, etc. that approves" in Paragraph 2 shall be read as, "within two weeks, calculated from the date of drafting of".

(Succession to of Labour Contract Concerning Worker Primarily Engaged in the Business)

Article 3. A labour contract that a worker mentioned in Article 2, Paragraph 1, Item 1 entered into with the divisively reorganizing company and with respect to which there is a statement in the divisive reorganization plan, etc. to the effect that the formed company, etc. will succeed thereto shall be succeeded to by the formed company, etc. concerned at the time when the partition involved in the divisive reorganization plan, etc. concerned becomes effective.

Article 4. A worker mentioned in Article 2, Paragraph 1, Item 1 and with respect to whom there is no statement in the divisive reorganization plan, etc. to the effect that the formed company, etc. will succeed to the labour contract that the worker entered into with the divisively reorganizing company may, during the period from the day on which the notification provided for in the same paragraph is made until the day prescribed by the divisively reorganizing company (limited to the period from the day two weeks before the day of the general meeting of shareholders, etc. that approves the divisive reorganization plan, etc. drafted by the divisively reorganizing company concerned until the day preceding the day of said general meeting of shareholders, etc.; hereinafter in the following paragraph and in Paragraph 1 of the following article, referred to as "deadline date"), file with the divisively reorganizing company concerned a written notice of objection with respect to the formed company, etc. concerned not succeeding to the labour contract concerned.

2. When prescribing the deadline date, the divisively reorganizing company shall provide at least 13 days between the date on which the notification provided for in the preceding paragraph is made and the deadline date.

3. With respect to the application of the provisions of Paragraph 1 in the cases prescribed in Article 374-6, Paragraph 1 and Article 374-22, Paragraph 1 of the Commercial Code, the phrase, "from the day two weeks before the day of the general meeting of shareholders, etc. that approves the division reorganization plan, etc. drafted by the divisively reorganizing company concerned until the day preceding the day of said general meeting of shareholders, etc." in the same paragraph shall be read as, ", with respect to formational-divisive reorganization, until the day preceding the day to which Article 374, Paragraph 2, Item 8 of the Commercial Code applies, and with respect to assimilative-divisive reorganization, until the day preceding the day to which Article 374-17, Paragraph 2, Item 9 of the same Code applies".

4. If the worker provided for in Paragraph 1 files the notice of objection provided for therein, then notwithstanding the provisions of Article 374-10, Paragraph 1 of the Commercial Code (including cases where it is applied mutatis mutandis in Article 63-6, Paragraph 1 of the Limited Liability Company Law) or Article 374-26, Paragraph 1 of the Commercial Code (including cases where it is applied mutatis mutandis in Article 63-9, Paragraph 1 of the Limited Liability Company Law), the labour contract that the worker concerned entered into with the divisively reorganizing company shall be succeeded to by the formed company, etc. concerned at the time when the divisive reorganization involved in the divisive reorganization plan, etc. concerned becomes effective.

(Succession to Labour Contract Concerning Other Worker)

Article 5. A worker mentioned in Article 2, Paragraph 1, Item 2 may, during the period from the day on which the notification provided for in the same paragraph is made until the deadline date, file with the divisively reorganizing company concerned a written notice of objection with respect to the formed company, etc. succeeding to the labour contract that the worker concerned entered into with the divisively reorganizing company concerned is being continued in the formed company, etc.

2. The provisions of Paragraph 2 and Paragraph 3 of the preceding article shall apply mutatis mutandis to the case provided for in the preceding paragraph.

3. If the worker provided for in Paragraph 1 files the notice of objection provided for therein, then notwithstanding the provisions of Article 374-10, Paragraph 1 of the Commercial Code (including cases where it is applied mutatis mutandis in Article 63-6, Paragraph 1 of the Limited Liability Company Law) or Article 374-26, Paragraph 1 of the Commercial Code (including cases where it is applied mutatis mutandis in Article 63-9,

Paragraph 1 of the Limited Liability Company Law), the labour contract that the worker concerned entered into with the divisively reorganizing company shall not be succeeded to by the formed company, etc.

(Succession, Etc. of Collective Agreement)

Article 6. A divisively reorganizing company may state in the divisive reorganization plan, etc. the portion of the collective agreement entered into by the divisively reorganizing company concerned and the trade union that the formed company, etc. succeeds to.

2. If, in a case where in the collective agreement entered into by the divisively reorganizing company and the trade union contains a portion outside the standard provided for in Article 16 of the Trade Union Law, there is a mutual agreement between the divisively reorganizing company concerned and the trade union concerned to the effect that the formed company, etc. concerned shall be made to succeed with respect to all or part of said portion in accordance with the statement in the divisive reorganization plan, etc., the portion involved in said mutual agreement shall, pursuant to the provisions of Article 374-10, Paragraph 1 of the Commercial Code (including cases where it is applied mutatis mutandis in Article 63-6, Paragraph 1 of the Limited Liability Company Law) or Article 374-26, Paragraph 1 of the Commercial Code (including cases where it is applied mutatis mutandis in Article 63-9, Paragraph 1 of the Limited Liability Company Law), be succeeded to by the formed company, etc. concerned in accordance with the statement in the divisive reorganization plan, etc. and at the time when the partition divisive reorganization involved in the divisive reorganization concerned becomes effective.

3. In a case other than that provided for in the preceding paragraph, if, with respect to a collective agreement entered into by a divisively reorganizing company and a trade union, a labour contract entered into by a worker who is a member of the trade union concerned and the divisively reorganizing company concerned is succeeded to by the formed company, etc., then notwithstanding the provisions of Article 374-10, Paragraph 1 of the Commercial Code (including cases where it is applied mutatis mutandis in Article 63-6, Paragraph 1 of the Limited Liability Company Law) or Article 374-26, Paragraph 1 of the Commercial Code (including cases where it is applied mutatis mutandis in Article 63-9, Paragraph 1 of the Limited Liability Company Law), a collective agreement with the same contents as the collective agreement concerned (except a portion involved in the mutual agreement provided for in the preceding paragraph) shall be deemed entered into by the formed company, etc. concerned and the trade union concerned at the time when the divisive reorganization concerned becomes effective.

(Understanding and Cooperation of Worker)

Article 7. In conducting a divisive reorganization, a divisively reorganizing company shall endeavor, in

accordance with the prescriptions of the Minister of Health, Labour and Welfare, to obtain the understanding and cooperation of the workers in its employ.

(Guidelines)

Article 8. In addition to the provisions of this law, the Minister of Labour Health, Labour and Welfare may prescribe guidelines necessary to promote the appropriate implementation of measures that the divisively reorganizing company and the formed company, etc. should take regarding the succession of labour contracts and collective agreements entered into by the divisively reorganizing company concerned.

Supplementary Provisions(Excerpt)

(Effective Date)

Article 1. This law shall be effective starting from the effective date of the Law Revising a Portion of the Commercial Code, Etc. (Law No. 90 of 2000); provided, however, that the provisions of the following article shall be effective from the date of promulgation.