

ANTI-CORRUPTION ACT

Enacted by Act No.6494, Jul. 24, 2001

CHAPTER 1 General Provisions

Article 1

Purpose

The purpose of this Act is to serve to create the clean climate of the civil service and society by preventing and efficiently regulating the acts of corruption.

Article 2

Definitions

The terms used in this Act are defined as follows:

- 1. The term “public agencies” means institutions and organizations falling under any of the followings:**

- (a) The administrative agencies of various levels under the Government Organization Act and the executive organs and local councils of local governments under the Local Autonomy Act;**
- (b) The Superintendents of the Offices of Education, the district offices of education, and the boards of education under the Local Education Autonomy Act;**
- (c) The National Assembly under the National Assembly Act, the courts of various levels under the Court Organization Act, the Constitutional Court under the Constitutional Court Act, the election commissions of various levels under the National Election Commission Act, and the Board of Audit and Inspection under the Board of Audit and Inspection Act; and**
- (d) Organizations related to the public service under Article 3 (1) 10 of the Public Service Ethics Act.**

2. The term “public officials” means the persons falling under any of the followings:

- (a) The public officials under the State Public Officials Act and the Local Public Officials Act, and other persons who are recognized by other Acts as public officials in terms of qualifications, appointments, education and training, services, remunerations, status guarantee, etc; and**
- (b) The heads of organizations related to the civil service provided for in subparagraph 1(d) and the employees of such organizations.**

3. The term “act of corruption” means the act falling under any of the followings:

- (a) The act of any public official's seeking gains for himself/herself or for any third party by abusing his/her position or authority or violating Acts and subordinate statutes in connection with his/her duties; and**
- (b) The act of causing damages to the property of any public agency in violation of Acts and subordinate statutes, in the process of executing the budget of the relevant public agency, acquiring, managing, or disposing of the property of the relevant public agency, or entering into and executing a contract to which the relevant public agency is a party.**

Article 3

Responsibilities of Public Agencies

(1) Every public agency shall assume the responsibility to strive for the prevention of corruption to create the sound ethics of society.

(2) In the event that any public agency deems it necessary to eliminate legal, institutional, or administrative inconsistencies or to improve other matters for the prevention of corruption, it shall promptly improve or rectify the foregoing.

(3) Based on such reasonable means as education and publicity, every public agency shall make strenuous efforts to raise the consciousness of its employees and citizens to stamp out corruption.

(4) Every public agency shall make active efforts to promote international cooperation and exchanges for the prevention of corruption.

Article 4

Responsibilities of Political Parties

(1) Political parties that are registered in accordance with the Political Parties Act and members affiliated with such political parties shall endeavor to create a clean and transparent culture of politics.

(2) Political parties and members shall establish a proper culture of election and manage the operation of such political parties and the raising and spending of political funds in a transparent manner.

Article 5

Duties of Private Enterprises

Private enterprises shall establish sound trade order and business ethics and take necessary steps to prevent every case of corruption.

Article 6
Duties of Citizens

Every citizen shall fully cooperate with public agencies' anti-corruption policies and programs.

Article 7
Obligation of Public Officials to Maintain Integrity

Every public official shall honor Acts and subordinate statutes, perform his/her duties impartially and hospitably and refrain from committing any act of corruption or any act of damaging his/her dignity.

Article 8
Code of Conduct for Public Officials

(1) The code of conduct that public officials shall observe by Article 7 shall be prescribed by the Presidential Decree, the National Assembly Regulations, the Supreme Court Regulations, the Constitutional Court Regulations, or the National Election Commission Regulations.

(2) The code of conduct for public officials referred to in paragraph (1) shall prescribe each of the followings:

1. Matters to prohibit and limit of public officials from receiving entertainment, money and other items etc. from any person related to his/her duties;
2. Matters to prohibit and limit public officials from influencing in personnel affairs, engaging in outside financial interests, introducing illegal connections or soliciting favors all by using his/her position;
3. Matters that public officials shall observe to create a sound climate of civil service such as impartiality in personnel practice, etc.; and
4. Other matters that needs to be established to prevent corruption and maintain the integrity and dignity of public office.

(3) If any public official violates the code of conduct referred to in paragraph (1), a disciplinary measure may be taken against him/her.

(4) Type, procedure and effect, etc. of the disciplinary measure referred to in paragraph (3) shall be governed by the related rules and regulations of the agency to which the public official involved belongs.

Article 9

Guarantee of Livelihood for Public Officials

The State and local governments shall make efforts to guarantee the livelihood of public officials so that they can devote themselves to their duties and shall take necessary steps to improve remuneration and treatment for them.

CHAPTER 2

Korea Independent Commission Against Corruption

Article 10

Establishment

To perform the improvement of Acts, subordinate statues, institutions, etc. and the formulation and implementation of policies that are needed to prevent corruption, the Korea Independent Commission Against Corruption (hereinafter, the “Commission”) shall be established under the President.

Article 11

Functions

The Commission shall perform the following works:

- 1. The work of formulating and recommending policies and institutional improvement measures to prevent corruption in the public agencies;**
- 2. The work of surveying the actual state and evaluating the progress of the policy steps taken to prevent corruption in the public agencies;**
- 3. The work of working out and implementing the education and publicity schedule for the prevention of corruption;**

4. The work of supporting activities carried out by nonprofit civic organizations to prevent corruption;
5. The work of promoting international cooperation for the prevention of corruption;
6. The work of receiving whistleblowing reports, etc. with respect to an act of corruption;
7. The work of protecting and rewarding whistleblowers; and
8. The work of addressing matters that the President puts on the agenda of the Commission to prevent corruption.

Article 12

Composition of Board

- (1) The board of the Commission shall consist of 9 members, including 1 chairman and 2 standing members.
- (2) The chairman and members shall be the persons of profound learning and experience in the issue of corruption and shall be appointed or designated according to the qualification criteria set by the Presidential Decree.
- (3) The chairman and standing members shall be appointed by the President and the non-standing members shall be appointed or designated by the President. In this case, 3 members shall be appointed or designated on the recommendation of the National Assembly and 3 members, on the recommendation of the Chief Justice of the Supreme Court, respectively.

(4) The chairman and standing members shall respectively become public officials in political service.

(5) If any member becomes vacant, a new member shall be appointed or designated without any delay.

Article 13

Chairman

(1) The chairman shall represent the Commission.

(2) When the chairman is unable to perform his/her duty for unavoidable reasons, a standing member designated by the chairman shall act on behalf of him/her.

Article 14

Disqualification of Members

(1) A person falling under any of the following subparagraphs shall not be qualified as a member:

- 1. A person who is not a citizen of the Republic of Korea;**
- 2. A person who falls under each subparagraph of Article 33 of the State Public Officials Act;**

3. A person who is affiliated with a political party as a member; and
4. A person who registers himself as a candidate to run in an election held in accordance with the Act on the Election of Public Officials and the Prevention of Election Malpractices.

(2) Any member shall, when s/he falls under any subparagraph of paragraph (1), rightly resign his/her seat.

Article 15

Independence of Work and Guarantee of Positions

(1) The Commission shall independently perform the work belonging to its authority.

(2) The terms of office for the chairman and members shall each be 3 years and they may be reappointed or re-designated only once.

(3) No member shall be dismissed or decommissioned against his/her will except for the case falling under any of the following subparagraphs:

1. Where s/he falls under any subparagraph of Article 14 (1); and
2. Where s/he has much difficulty in performing his/her duties on the grounds of mental or physical trouble.

(4) In case of a member falling under subparagraph 2 of paragraph (3), the President shall dismiss or decommission him/her on the recommendation of the chairman after going through a resolution thereof with the consent of not less than two thirds of the total members.

Article 16 Resolution of Board

The meeting of board shall begin by the attendance of a majority of its registered members and resolve with the concurrent vote of a majority of those present.

Article 17 Subcommittees

For the efficient performance of work, the Commission may set up subcommittees by specific fields.

Article 18 Expert Members

(1) The chairman may appoint experts in the academia and social organizations and other experts on the related field as expert members of the Commission, as reasonably deemed necessary, to efficiently support the Commission's work and conduct specialized studies.

(2) The chairman shall appoint or designate expert members through the resolution of the board of the Commission.

Article 19

Establishment of Secretariat

(1) The Commission shall establish a secretariat to deal with administrative affairs of the Commission.

(2) The secretariat shall have its head and other necessary staff.

(3) A standing member designated by the chairman shall concurrently serve as the head of the secretariat who takes charge of dealing with administrative affairs of the Commission and instructing and supervising the staff under the chairman's direction.

Article 20

Recommendation for Institutional Improvements

(1) The Commission may, when it deems necessary, recommend the head of any public agency to improve institutions for the prevention of corruption.

(2) The head of any public agency, who has been recommended to improve institutions under paragraph (1), shall reflect such a recommendation in its effort to come up with measures and inform the Commission of the result of the measures taken according to the recommendation.

(3) Where the head of a public agency who has been recommended to make institutional improvements under paragraph (1) finds it difficult to take measures as recommended by the Commission, s/he shall inform the Commission thereof.

Article 21

Hearing of Opinions, etc.

(1) In performing the functions provided for in Article 11, the Commission may take measures falling under each of the following subparagraphs, as necessary:

- 1. A request to any public agency for explanation or submission of materials, documents, etc. and a diagnostic survey ; and**
- 2. A request to any interested person, any reference person, or any public official involved for his/her attendance and the statement of his/her opinion.**

(2) The Commission shall be prohibited from taking measures provided for in paragraph (1) with respect to the matters falling under each of the followings:

- 1. Matters concerning the confidential information of the State;**
- 2. Matters concerning the appropriateness of an investigation, trial, and execution of sentence (including any security measure, any security surveillance measure, any protective detention measure, any probation measure, any protective internment measure, any custodial treatment measure, and any community service order), or matters on which an inspection have been launched by the Board of Audit and Inspection;**
- 3. Matters brought for an administrative adjudication or litigation, an adjudication of the Constitutional Court, a constitutional petition, an examination request filed with the Board of Audit and Inspection, and other procedures for protest and remedy that are in process under other Acts;**
- 4. Matters concerning procedures for mediating interests among parties concerned, including reconciliation, good office, mediation, and arbitration, that are in process under Acts and subordinate statutes; and**
- 5. Matters made definite by a judgment, decision, adjudication, reconciliation, mediation, arbitration, etc. or other matters on which the Audit and Inspection Commission has resolved in accordance with the Board of Audit and Inspection Act.**

(3) The steps of each subparagraph of paragraph (1) above shall be limited to the scope necessary for the Commission to perform its work for in each subparagraph of Article 11 and attention shall be paid not to hamper the performance of duties by any public agency.

(4) The head of any public agency shall sincerely comply with the request for the submission of materials and cooperate in surveying the actual condition under paragraph (1).

(5) The head of any public agency may get his/her officials or relevant experts to be present at the Commission to state their opinions or to submit relevant materials in connection with institutional improvements, etc.

Article 22

Prohibition of Divulging Confidential Information

The incumbent or former members, expert members, and staff of the Commission and any other person who is or has been seconded to the Commission or designated by the Commission to perform the work of the Commission shall be prohibited from divulging any confidential information that they have acquired while performing the work of the Commission.

Article 23

Legal Fiction as Public Officials in the Application of Penal Provisions

The Member and expert members of the Commission who are not public officials shall be deemed public officials in the application of the Criminal Act and the penal provisions of other Acts with regards to the work of the Commission.

Article 24

Organization and Operation

Necessary matters with regards to the organization and operation of the Commission except for the matters established in this Act shall be prescribed by the Presidential Decree.

CHAPTER 3
Reporting of Acts of Corruption and Protection of
Whistleblowers, Etc.

Article 25
Reporting an Act of Corruption

Any person who becomes aware of an act of corruption may report such act of corruption to the Commission.

Article 26
Public Officials' Obligation to Report An Act of Corruption

A public official shall, in the event that s/he learns an act of corruption committed by another public official or s/he is forced or proposed by another public official to commit an act of corruption, report without any delay such fact to any investigative agency, the Board of Audit and Inspection or the Commission.

Article 27
Obligation to Report in Good Faith

A person, who reports an act of corruption despite the fact that s/he knew or could have known that his/her report was false, shall not be protected by this Act.

Article 28
Method of Reporting

Any person who intends to report an act of corruption shall do so in a written statement containing his/her personal information, the intention, purport, and reasons for his/her reporting, and present the subject of his/her reporting and evidence attesting the act of corruption along with such statement.

Article 29
Handling of Reports

(1) The Commission may, upon receipt of a report, confirm the following details from the whistleblower:

- 1. Matters necessary to specify the contents of the report, such as the name, address, occupation, etc. of the whistleblower and the details and purport of his/her report; and**
- 2. Matters concerning whether the contents of the report fall under any subparagraph of Article 21 (2).**

(2) The Commission may ask any whistleblower to submit necessary materials within the scope of ascertaining the truth of the matters specified in paragraph (1).

(3) If it is necessary to investigate the received report, the Commission shall refer such case to appropriate authorities (hereinafter, the “investigative agency”) among the Board of Audit and Investigation, an investigative agency, or an agency in charge of supervising the relevant public agency (referring to the relevant public agency in case that such agency is nonexistent).

(4) In the event that a person suspected of committing the act of corruption on which the Commission has received a report is a high-ranking public official falling under each of the following subparagraphs and contents of his/her suspected act of corruption require an investigation for criminal punishment and an institution of public prosecution, the Commission shall file an accusation with the prosecution against him/her in its name:

- 1. A public official with the rank of Vice Minister or higher;**
- 2. The Special Metropolitan City Mayor, Metropolitan City Mayor, or Do governor;**
- 3. A police officer with the rank of superintendent general or higher;**
- 4. A judge or a public prosecutor;**
- 5. A military officer with the rank of general; and**
- 6. A member of the National Assembly.**

(5) The prosecution shall, upon receipt of an accusation filed under paragraph (4), notify the Commission of the results of its investigation. The same shall also apply to a case where the case on which the Commission has filed an accusation is already under investigation or related with another case under investigation.

Article 30

Handling of Investigation Results

(1) The investigative agency shall complete its inspection, investigation, or examination of a case within 60 days from the date on which it receives the referred whistleblowing report thereon; provided, however, that if there are justifiable grounds, the period of 60 days may be extended and the investigative agency shall notify the Commission of the grounds of such extension.

(2) The investigative agency to which a whistle-blowing report is referred under Article 29 shall notify the Commission of the results of inspection, investigation, or examination thereof within 10 days from the date on which it concludes such inspection, investigation, or examination. In this case, the Commission shall, upon receipt of such report, immediately inform the whistleblower of a summary of the results of the inspection, investigation, or examination.

(3) The Commission may, if necessary, ask the investigative agency to explain the results on which the agency has made notification under paragraph (2).

(4) When the inspection, investigation, or examination conducted by the investigative agency is deemed inadequate, the Commission may ask the investigative agency to launch again the inspection, investigation, or examination by presenting reasonable grounds, such as the submission of new evidential materials, within 14 days from the date on which it is notified of the results thereof. Any whistleblower who is informed of a summary of the results of the inspection, investigation, or examination under the later part of paragraph (2) above may file an objection with the Commission regarding the results of the inspection, investigation, or examination.

(5) The investigative agency that is requested to launch again the inspection, investigation, or examination shall notify the Commission of the results of such further inspection, investigation, or examination within 7 days from the date on which it concludes the inspection, investigation, and examination. In this case, the Commission shall, upon receipt of the results of such inspection, investigation, or examination, immediately inform the whistleblower of a summary of the results of such inspection, investigation, or examination that has been launched again.

Article 31
Filing Adjudication

(1) Where a person suspected of committing the act of corruption under Article 29 (4) and (5) falls under Articles 129 through 133 and 355 through 357 of the Criminal Act (including the case of aggravated punishment under other Acts) and that the Commission directly files an accusation with the prosecution against him/her, if the same case as the one against which the accusation is filed is already under investigation or is related to another case under investigation and a public prosecutor concerned delivers a notice to the Commission that s/he does not institute a public prosecution against either of the two cases, the Commission may file an application for an adjudication on the right or wrong thereof with the High Court corresponding to the High Public Prosecutor's Office to which the public prosecutor belongs within 10 days from the date the Commission receives such notice.

(2) Articles 260 (2), 261, 262 and 263 through 265 of the Criminal Procedure Act shall apply mutatis mutandis to the application for the adjudication referred to in paragraph (1).

(3) When the District Public Prosecutor's Office or the District Public Prosecutor's Branch Office to which the public prosecutor belongs under Article 260 (2) of the Criminal Procedure Act receives the application for the adjudication of paragraph (1), the statute of limitation for prosecution thereof shall be suspended during the period from receipt of such application to ruling under Article 262 (1) of the Criminal Procedure Act.

(4) With respect to the application for the adjudication referred to in paragraph (1), if the public prosecutor has not instituted a public prosecution by ten days prior to the date on which the statute of limitation for prosecution thereof expires, it shall be deemed that the public prosecutor has served a notice on the Commission that s/he does not institute such public prosecution at that time; and with respect to an accusation which the Commission filed with the prosecution under Article 29 (4), if the public prosecutor has not instituted such public prosecution by three months after the date on which the Commission filed such accusation, it shall be deemed that the public prosecutor has served such a notice on the Commission at the time that the three months lapsed, respectively.

Article 32

Guarantee of Position

(1) No person shall be subject to any detriment to his/her position or any discrimination in his/her working conditions such as disciplinary measure etc. imposed by an agency, organization, or company, etc. to which s/he belongs, due to his/her whistleblowing report under this Act or his/her statement or submission of materials, etc. related thereto.

(2) Any person, who has suffered any detrimental practice due to his/her whistle-blowing report, may request the Commission to take measures to guarantee his/her position, including reinstating his/her position to the original state thereof or transferring him/her to another post (hereinafter, "Measures For Guaranteeing Position").

(3) Where there is the request under paragraph (2), the Commission shall launch an investigation.

(4) The Commission may conduct the investigation requested under paragraph (3) in the manner falling under each of the followings:

- 1. A request to the requester or reference persons for presenting themselves before the Commission to state their opinions or for submitting their written statements;**
- 2. A request to the requester, reference persons, or related agencies, etc. for submitting materials, etc. that are deemed related to the investigation; or**
- 3. An inquiry about facts or information that are deemed related to the investigation of the requester, reference persons, or related agencies.**

(5) Any person who is subject to the request, inquiry, or measures under each subparagraph of paragraph (4) shall sincerely comply with them.

(6) When a request made by any public official for the guarantee of position is deemed reasonable based on investigation results, the Commission may ask the head of an agency to which the requester belongs to take proper measures to guarantee his/her position. In this case, the head of such agency shall comply with the request from the Commission as long as there are not unjustifiable grounds for him/her not to do so.

(7) When a request for the guarantee of position from a person who is not a public official is deemed reasonable based on investigation results, the Commission may recommend the head of an organization or a company, etc. to which the requester belongs to take proper measures to guarantee his/her position.

(8) When a whistleblower who is a public official requests the Commission to transfer his/her post and such request is deemed reasonable, the Commission may ask the Minister of Government Administration and Home Affairs or the head of the relevant public agency to execute such transfer of post. In this case, the Minister of Government Administration and Home Affairs or the head of the relevant public agency shall, upon receipt of the request from the Commission, give priority consideration to such request.

(9) The Commission may ask a relevant disciplinary officer to take disciplinary action against a person who has violated paragraph (1).

Article 33

Physical Protection

(1) The Commission and any employee of the investigative agency to which the matters of any whistleblowing are referred under Article 29 (3) shall be prohibited from disclosing or suggesting the identity of a whistleblower without his/her consent.

(2) A whistleblower may request the Commission to take reasonable protective steps in case his/her whistleblowing becomes a source of a feeling of insecurity to himself/herself, his/her relatives, or his/her cohabitants. In this case, the Commission may, if necessary, ask the head of the competent police station to take relevant protective steps.

(3) The head of the competent police station shall, upon receipt of the request made under paragraph (2), immediately take steps to protect them under the conditions as prescribed by the Presidential Decree.

Article 34

Protection of Cooperators

The provisions of Articles 32 and 33 shall apply mutatis mutandis to the guarantee of position and physical protection of any person, other than a whistleblower, who has cooperated in the inspection, investigation, or examination of a case by stating his/her opinion and submitting materials, etc. with regards to the whistleblowing under this Act.

Article 35 Mitigation of Culpability

(1) If any whistleblowing pursuant to this Act leads to detection of a crime perpetrated by the whistleblower, the punishment of such whistleblower may be mitigated or remitted.

(2) The provisions of paragraph (1) above shall apply mutatis mutandis to any disciplinary measure taken by any public agency.

Article 36

Reward and Compensation

(1) If any whistleblowing report made under this Act benefits the property of public agencies, prevent damages to such property, or enhances the public interest, the Commission may recommend the whistleblower to be granted a reward under the Awards and Decorations Act, etc.

(2) If a whistleblowing report of an act of corruption under this Act has resulted directly in recovering or increasing revenues or reducing costs of public agencies, the whistleblower may apply to the Commission for payment of reward therefor.

(3) If an application for the payment of reward is filed as provided in paragraph (2), the Commission shall pay the applicant such reward after going through a deliberation and resolution of the Reward Deliberation Board set up in accordance with Article 37 under the conditions as prescribed by the Presidential Decree; provided, however, that with respect to any whistleblowing report made by any public official in connection with his/her duties, such reward may be reduced or not be paid.

(4) The application for the payment of reward under paragraph (2) above shall be filed within 2 years from the date on which the recovery or increase of revenues or the reduction of costs of the public agency is known.

Article 37

Reward Deliberation Board

(1) The Commission shall set up Reward Deliberation Board to deliberate and resolve matters concerning applications for reward.

(2) The Reward Deliberation Board shall deliberate and resolve matters falling under each of the following subparagraphs:

- 1. Matters concerning requirements for the payment of reward;**
- 2. Matters concerning the amount of reward to be paid; and**
- 3. Other matters concerning the payment of reward.**

(3) Matters necessary with regards to the composition and operation of the Reward Deliberation Board shall be prescribed by the Presidential Decree.

Article 38

Determination of Reward Payment, etc.

(1) The Commission shall, upon receipt of an application for reward filed under Article 36, determine whether to pay such reward and the amount of the reward, if any, to be paid, within 90 days from the date of the application therefor unless there exists any reason to the contrary.

(2) If the Commission determines to pay the reward under paragraph (1), it shall immediately inform the applicant thereof.

Article 39

Relation to Other Acts and Subordinate Statutes

(1) Any person who is to be paid reward under Article 36 shall not be prohibited from applying for reward in accordance with other Acts.

(2) In the event that any person who is to receive reward under this Act has received reward for the same reason according to the provisions of other Acts and subordinate statutes, if the amount of such reward obtained is the same as or exceeds the amount of a reward to be received under this Act, any reward under this Act shall not be given to such person, and if the amount of such reward is less than the amount of a reward to be received under this Act, the reward under this Act shall be the difference in the two amounts.

(3) If anyone, who received a reward pursuant to this Act, is to receive another reward for the same reason under the provisions of other Acts, the amount to be paid shall be determined with the already paid reward deducted.

CHAPTER 4

Citizens' Request for Inspection

Article 40

Right to Request Inspection

(1) In the event that execution of administrative affairs by a public agency seriously harms public interest due to the violation of Acts and subordinate statutes or the involvement in an act of corruption, any citizen aged 20 or over may request an inspection from the Board of Audit and Inspection by presenting a petition signed by not less than a certain number of citizens as prescribed by the Presidential Decree; provided, however, that with respect to the administrative affairs executed by the National Assembly, courts, the Constitutional Court, Election Commissions, or the Board of Audit and Inspection, such request shall be made to the Speaker of the National Assembly, the Chief Justice of the Supreme Court, the President of the Constitutional Court, the Chairman of the National Election Commission, or the Chairman of the Board of Audit and Inspection (hereinafter, the "head of a relevant public agency").

(2) Notwithstanding the provisions of paragraph (1), the matters falling under any of the following subparagraphs shall be excluded from the subject of a request for an inspection:

- 1. Matters pertaining to confidential information and security of the State;**
- 2. Matters pertaining to the appropriateness of an investigation, trial, and execution of penalty (including any security measure, any security surveillance measure, any protective detention measure, any probation measure, any protective internment measure, any custodial treatment measure, and any community service order);**
- 3. Matters pertaining to private right relationship or individual privacy;**
- 4. Matters that have been or are under inspection by other public agencies; provided, that an exception shall be made in case there are new results or material omissions regarding such inspection already conducted; and**
- 5. Other matters regarding which inspection is reasonably deemed inappropriate as prescribed by the Presidential Decree.**

(3) Notwithstanding the provisions of paragraph (1) above, any inspection request pertaining to the execution of the administrative affairs that belong to the rights of local governments and their heads shall be governed by the provisions of Article 13-4 of the Local Autonomy Act.

Article 41

Method of Requesting Inspection

Any person who intends to request an inspection shall make such request in the form of a signed document stating his/her name, address, occupation, etc. and the purport of and reasons for requesting such inspection under the conditions as prescribed by the Presidential Decree.

Article 42

Decision on Conducting Inspection

(1) With respect to an inspection request made in accordance with the main sentence of Article 40 (1), the National Audit and Inspection Request Deliberation Commission prescribed by the Regulations of the Board of Audit and Inspection shall determine whether to conduct such inspection.

(2) If the head of a relevant public agency receives an inspection request under the proviso of Article 40 (1), s/he shall determine, within 30 days, whether to conduct such inspection in accordance with the National Assembly Regulations, the Supreme Court Regulations, the Constitutional Court Regulations, the National Election Commission Regulations, or the Regulations of the Board of Audit and Inspection.

(3) If the Board of Audit and Inspection or the head of a relevant public agency deems that an inspection request is groundless, such board or head shall dismiss the request and serve a notice thereon on the requester within 10 days from the date when the decision of dismissal comes.

Article 43

Inspection on Request

(1) The Board of Audit and Inspection or the head of a relevant public agency shall conclude an inspection within 60 days from the date of the determination to conduct such inspection; provided, however, that the period of 60 days may be extended where there exists any justifiable reason therefor.

(2) The Board of Audit and Inspection or the head of a relevant public agency shall notify a requester for an inspection of the results of such inspection within 10 days from the date on which such inspection is concluded.

Article 44

Operation

Necessary matters concerning citizens' request for inspection, except as otherwise provided for in this Act, shall be governed by the National Assembly Regulations, the Supreme Court Regulations, the Constitutional Court Regulations, the National Election Commission Regulations, or the Regulations of the Board of Audit and Inspection.

CHAPTER 5

Supplementary Provisions

Article 45

Employment Restrictions on Public Officials Dismissed for Corruption

(1) Any public official who rightly resigns, is removed or dismissed from office for committing an act of corruption in connection with his/her duties while working for a public agency shall be prohibited from landing a job in any public agency, any private company incorporated for the purpose of making the profit of not less than a certain scale, which has maintained close ties with the post to which he has belonged for 3 years before he resigns (hereinafter, the “Profit-Making Company”), or any corporation or organization (hereinafter, the “Association”) which has been established for the purpose of seeking a common interest and mutual cooperation with a profit-making company, for 5 years from the date on which s/he resigns.

(2) The provisions of Article 17 (2) of the Public Service Ethics Act shall apply mutatis mutandis to the scope of the relationship of close ties between the post to which the public official has belonged prior to his/her resignation and the profit-making company, the scale of the profit-making company, and the scope of the association under paragraph (1).

Article 46

Demand for Dismissal of Employed Persons

(1) In the event that a person is employed in a public agency in violation of the provisions of Article 45, the Commission shall demand that the head of the public agency concerned dismiss him/her, and the head of the public institution concerned shall comply with the demand unless any justifiable grounds exist.

(2) In the event that a person is employed in a profit-making company or an association in violation of the provisions of Article 45, the Commission shall demand that the head of the public agency concerned take steps to cancel his/her employment in such profit-making company or such association and the head of the public agency concerned shall, upon receipt of the demand, request the head of such profit-making company or the head of such association to dismiss him. In this case, the head of the profit-making company or the head of the association shall promptly comply with the request unless the justifiable grounds exist that make it impossible for him to do so.

Article 47

Special Case for National Assembly, etc.

The National Assembly, courts, the Constitutional Court, the National Election Commission, or the Board of Audit and Inspection shall independently perform sincerely the work provided for in each of subparagraphs 1 through 4 of Article 11 to prevent internal corruption.

Article 48

Delegation Provisions

Necessary matters concerning the enforcement of this Act, with the exception of matters prescribed by this Act, shall be prescribed by the Presidential Decree, the National Assembly Regulations, the Supreme Court Regulations, the Constitutional Court Regulations, the National Election Commission Regulations, or the Regulations of the Board of Audit and Inspection.

CHAPTER 6

Penal Provisions

Article 49

Offense of Violating Good Faith Obligation by Whistleblowers

If any person makes a whistleblowing report with knowledge that the contents of his/her report are false as provided in Article 27, he shall be punishable by imprisonment for not less than one year to not more than 10 years.

Article 50

Offense of Exploiting Office Secrets

(1) If any public official has acquired any goods or property interest by exploiting secrets that he has learned while performing his/her duties or has gotten a third party to acquire such goods or such property interest by exploiting such secrets, s/he shall be punishable by imprisonment for not more than 7 years or by a fine not exceeding 50 million won.

(2) In the case of paragraph (1), the imprisonment and fine may be imposed cumulatively.

(3) The goods or property interest acquired by a person committing the offense of paragraph (1) or knowingly acquired by a third party by way of such offense shall be confiscated or collected by the corresponding value to be confiscated.

Article 51

Offense of Leaking Office Secrets

Any person who has divulged confidential information that s/he learned while performing his/her duties in violation of Article 22 shall be punishable by imprisonment for not more than 5 years or by the fine not exceeding 30 million won.

Article 52

Offense of Violating Employment Restrictions on Public Officials Dismissed for Corruption

If any public official who has been dismissed for committing an act of corruption is employed in any public agency, any profit-making company, or any association in violation of Article 45 (1), s/he shall be punishable by imprisonment for not more than 2 years or by the fine not exceeding 20 million won.

Article 53

Fine for Negligence

(1) Any person who has imposed any detriment in position or any discrimination in working conditions under Article 32 (1) shall be punishable by a fine for negligence not exceeding 10 million won.

(2) The fine for negligence of paragraph (1) above shall be imposed by the Commission and, if a person subject to a disposition taken to impose the fine for negligence fails to pay such fine for negligence by the due date, the Commission shall entrust the head of the jurisdictional district tax office with the collection of such fine for negligence.

(3) When the Commission imposes a fine for negligence in accordance with paragraph (1), it shall investigate and confirm the act of violation and then notify a person subject to a disposition taken to impose such fine for negligence that he should pay the fine for negligence by specifying the fact of violation, the method of raising an objection thereto, the period during which such objection is raised, the amount of the fine for negligence, etc.

(4) Necessary matters concerning standards, etc. for imposing a fine for negligence for violating Article 32 (1) shall be prescribed separately.

ADDENDA

(1) (Effective Date) This Act shall enter into force 6 months after the date of its promulgation.

(2) (Amendment to Other Acts) Article 23 of the Public Service Ethics Act shall be deleted.

Source: <http://www.kicac.go.kr/>

Korean Independent Commission Against Corruption

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