

ENFORCEMENT DECREE OF THE MALODOR PREVENTION ACT

Presidential Decree No. 18695, Feb. 7, 2005
Amended by Presidential Decree No. 20297, Sep. 28, 2007
Presidential Decree No. 22639, Jan. 26, 2011
Presidential Decree No. 23267, Oct. 28, 2011
Presidential Decree No. 24135, Oct. 9, 2012
Presidential Decree No. 25478, Jul. 16, 2014
Presidential Decree No. 25613, Sep. 18, 2014
Presidential Decree No. 27278, jun. 28, 2016
Presidential Decree No. 27735, Dec. 30, 2016

Article 1 (Purpose)

The purpose of this Decree is to provide for matters delegated by the Malodor Prevention Act and matters necessary for the enforcement thereof.

Article 1-2 (Application of Stringent Maximum Allowable Emission Level)

(1) "Facilities prescribed by Presidential Decree" provided in Article 7 (2) of the Malodor Prevention Act (hereinafter referred to as the "Act") means the following facilities:

1. Facilities located in an area designated as a malodor control area (hereinafter referred to as "malodor control area") pursuant to Article 6 (1) of the Act;
 2. The following facilities located in an area other than a malodor control area:
 - (a) Facilities located within one kilometer from the boundary line of the site for a school under subparagraph 2 of Article 2 of the School Health Act;
 - (b) Facilities in which case the period for taking measures necessary to prevent malodor under Article 8-2 (3) of the Act has elapsed, in which case complaints related to malodor are continuously raised for more than one year and which emits compound malodor or designated malodor-producing substances exceeding the maximum allowable emission level (hereinafter referred to as "maximum allowable emission level") under Article 7 (1) of the Act.
- (2) Where a Special Metropolitan City, Metropolitan City, Do (excluding cities with a population of over 500,000 within the areas under the jurisdiction thereof), Special Self-Governing City, Special Self-Governing Province, or city with a population of over 500,000 prescribes the stringent maximum allowable emission level by Municipal Ordinance pursuant to Article 7 (2) of the Act, it may choose not to

apply the stringent maximum allowable emission level within one year, as prescribed by Municipal Ordinance, in consideration of the period for preparation necessary to comply with the stringent maximum allowable emission level. <Amended by Presidential Decree No. 24135, Oct. 9, 2012>

Article 2 (Grounds for Extension of Period for Taking Measures)

"Grounds prescribed by Presidential Decree, such as cases where special technology is required to take such measures" provided in the proviso to Article 8 (5) and the proviso to Article 8-2 (3) of the Act means any of the following cases: <Amended by Presidential Decree No. 23267, Oct. 28, 2011>

1. Where it is inevitable for a person to extend the period for taking measures because it takes long time to introduce special malodor prevention technology which he/she cannot acquire in the Republic of Korea;
2. Where a person replaces existing technologies with malodor prevention technologies which have obtained new technology certification or technical approval under Article 7 of the Environmental Technology and Industry Support Act;
3. Where the suspension of the operation of a place of business that operates 24 hours consecutively is likely to seriously interfere with the manufacture of products due to the characteristics of processes;
4. Where a person is unable to install malodor-preventing facilities due to a natural disaster, fire or other circumstances beyond his/her control.

Article 3 (Period for Taking Measures to Comply with Order to Make Improvements)

(1) Where the Mayor of a Special Metropolitan City, the Mayor of a Metropolitan City, the Governor of a Do (excluding cities with a population of over 500,000 within the areas under his/her jurisdiction), the Mayor of a Special Self-Governing City, the Governor of a Special Self-Governing Province (hereinafter referred to as "Mayor/Do Governor") or the Mayor of a city with a population of over 500,000 (hereinafter referred to as "Mayor of a large city") issues an order to make improvements under Article 10 of the Act, he/she may prescribe the period for taking measures for up to one year, in consideration of the period required to take measures, such as the elimination or control of malodor. <Amended by Presidential Decree No. 24135, Oct. 9, 2012>

(2) Where an operator of facilities subject to reporting who has received an order to make improvements under Article 10 of the Act, is unable to take measures within the period for taking measures under paragraph (1) due to a natural disaster or any other extenuating circumstance, the Mayor/Do Governor or the Mayor of a large city may extend the period for taking measures by up to six months after receiving an application filed by the operator of facilities subject to reporting. In such cases, he/she shall file an application for extension before the period for taking measures under paragraph (1) expires.

Article 4 (Voluntary Improvements Made by Operators of Facilities Subject to Reporting)

(1) In any of the following cases where an operator of facilities subject to reporting emits malodor exceeding the maximum allowable emission level, he/she may voluntarily submit to the Mayor/Do Governor or the Mayor of a large city, an improvement plan stating grounds for making improvements to malodor-emitting facilities or malodor-preventing facilities, the period of improvement, the details of

improvement, the expected amount of emissions of pollutants, the emission intensity, a malodor reduction and control plan during the period of improvement, and an operation and management plan, etc. after making improvements, and may make improvements to malodor-emitting facilities or malodor-preventing facilities, before the Mayor/Do Governor or the Mayor of a large city inspects the relevant facilities subject to reporting under Article 17 of the Act:

1. Where it is inevitable to improve, modify, inspect, or repair malodor-emitting facilities or malodor-preventing facilities;
 2. Where he/she is unable to appropriately operate malodor-emitting facilities or malodor-preventing facilities due to an unexpected accident in an important mechanism, etc.;
 3. Where he/she is unable to appropriately operate malodor-emitting facilities or malodor-preventing facilities due to the water supply cut off or power failure;
 4. Where he/she is unable to appropriately operate malodor-emitting facilities or malodor-preventing facilities due to a natural disaster, fire or other circumstances beyond his/her control.
- (2) Where an operator of facilities subject to reporting submits an improvement plan pursuant to paragraph (1), the Mayor/Do Governor or the Mayor of a large city may choose not to issue an order to make improvements under Article 10 of the Act during the period of improvement.

Article 5 (Malodor-Emitting Facilities Subject to Penalty Surcharges)

"Malodor-emitting facilities prescribed by Presidential Decree" provided for in Article 12 (1) 6 of the Act means the following facilities:

1. Livestock breeding facilities;
2. Organic and inorganic compounds manufacturing facilities: Provided, That where the use of the relevant facilities is discontinued, limited to facilities in which an accident, such as an explosion or fire, is likely to occur because raw materials, supplementary materials, water, or goods (including half-finished goods) put into the relevant facilities cause chemical reactions.

Article 6 (Period for Taking Measures concerning Recommendations for Improvement)

(1) Where the Mayor of a Special Self-Governing City, the Governor of a Special Self-Governing Province, the Mayor of a large city, or the head of a Si (excluding the Mayor of a large city; hereinafter the same shall apply)/Gun/Gu (referring to the head of an autonomous Gu; hereinafter the same shall apply) makes recommendations for improvement under Article 14 (1) of the Act, he/she shall prescribe the period for taking measures for up to six months in consideration of the period required to take measures, such as the elimination or control of malodor. <Amended by Presidential Decree No. 25613, Sep. 18, 2014>

(2) Where a person who has received recommendations for improvement under Article 14 (1) of the Act is unable to take measures within the period for taking measures under paragraph (1) due to a natural disaster or other circumstances beyond his/her control, the Mayor of a Special Self-Governing City, the Governor of a Special Self-Governing Province, the Mayor of a large city, or the head of a Si/Gun/Gu may extend the period for taking measures within three months upon receiving an application filed by the relevant person who has received recommendations for improvement. In such cases, he/she shall file an application

for extension before the period for taking measures under paragraph (1) expires. <Amended by Presidential Decree No. 25613, Sep. 18, 2014>

Article 7 (Confirmation of Implementation of Measures)

Where the period for taking measures under Article 6 (1) expires, the Mayor of a Special Self-Governing City, the Governor of a Special Self-Governing Province, the Mayor of a large city, or the head of a Si/Gun/Gu shall require related public officials to immediately confirm the present status of the implementation of such measures. <Amended by Presidential Decree No. 25613, Sep. 18, 2014>

Article 8 (Cooperation by Related Institutions)

"Matters prescribed by Presidential Decree" provided for in the former part of Article 20 of the Act means the following: <Amended by Presidential Decree No. 25478, Jul. 16, 2014>

1. Submission of data necessary to smoothly conduct fact-finding research on the emission of malodor under Article 4 of the Act;
2. Submission of data necessary to formulate countermeasures to prevent malodor in public waters, such as sewerage, rivers, lakes and marshes, harbors.

Article 8-2 (Places of Business Eligible for Technical Assistance for Reduction of Malodor and Procedures therefor)

(1) The Minister of Environment may provide technical assistance for reduction of malodor to places of business he/she deems to be in need of technical assistance necessary to reduce malodor (hereinafter referred to as "technical assistance for the reduction of malodor") among the following places of business pursuant to Article 21 (1) of the Act: Provided, That the foregoing shall not apply to places of business that receive technical assistance for the reduction of malodor to reduce malodor from the Clean Production Support Center pursuant to Article 7 of the Act on the Promotion of the Conversion into Environment-Friendly Industrial Structure: <Amended by Presidential Decree No. 27735, Dec. 30, 2016>

1. The following places of business among the places of business of small and medium enterprises under Article 2 (1) of the Framework Act on Small and Medium Enterprises:
 - (a) Places of business where malodor-emitting facilities have been installed;
 - (b) Places of business for which the head of a local government has requested the Minister of Environment to provide technical assistance for the reduction of malodor;
2. Deleted; <by Presidential Decree No. 27735, Dec. 30, 2016>
3. Other places of business for which the Minister of Environment deems it necessary to take special measures to control malodor.

(2) Any person who intends to receive technical assistance for the reduction of malodor shall file an application with the Minister of Environment, as prescribed by Ordinance of the Ministry of Environment. In such cases, the head of a local government having jurisdiction over the relevant place of business may submit to the Minister of Environment, his/her opinion necessary for technical assistance for the reduction of malodor.

(3) The Minister of Environment in receipt of an application pursuant to paragraph (2) shall determine a plan for technical assistance for the reduction of malodor in consideration of the characteristics of the place of business eligible for technical assistance for the reduction of malodor, and notify an applicant of such plan by no later than seven days prior to the commencement of technical assistance for the reduction of malodor. In such cases, where it is necessary to determine a plan for technical assistance for the reduction of malodor, he/she may listen to opinions of the Green Environment Support Center under Article 10 of the Environmental Technology and Industry Support Act, the head of a local government having jurisdiction over the relevant place of business, or a specialized institution related to the reduction of malodor.

(4) Where a person who has applied for technical assistance for the reduction of malodor or has received technical assistance for the reduction of malodor requests the Minister of Environment or the head of a local government to protect information related to the relevant facilities, production processes, products, etc., the Minister of Environment or the head of a local government in receipt of such request shall take action lest information should be disclosed or divulged.

(5) In addition to matters provided for in paragraphs (1) through (4), detailed matters necessary for technical assistance for the reduction of malodor shall be prescribed by Ordinance of the Ministry of Environment.

Article 9 (Delegation and Entrustment of Authority and Affairs)

(1) The Minister of Environment shall delegate his/her authority to impose and collect administrative fines under Article 30 (1) 2 to the head of a drainage basin environmental protection authority or the head of a regional environmental protection authority pursuant to Article 24 (1) of the Act. *<Newly Inserted by Presidential Decree No. 27278, Jun. 28, 2016>*

(2) The Minister of Environment shall delegate the following authority to the President of the National Institute of Environmental Research pursuant to Article 24 (1) of the Act:

1. Matters concerning the designation of a malodor testing institution under Article 18 (1) of the Act, the receipt of reports on alterations to designated matters under paragraph (3) of the aforesaid Article, and the issuance of a certificate of designation and the public announcement of the issuance thereof under paragraph (4) of the aforesaid Article;
2. Revocation of designation and the suspension of operation under Article 19 of the Act;
3. Hearings under subparagraph 3 of Article 22 of the Act.

(3) The Mayor/Do Governor shall delegate the following authority to the head of a Si/Gun/Gu pursuant to Article 24 (2) of the Act: *<Amended by Presidential Decree No. 25613, Sep. 18, 2014; Presidential Decree No. 27278, Jun. 28, 2016; Presidential Decree No. 27735, Dec. 30, 2016>*

1. Acceptance of reports on the installation of and reports on modifications to malodor-emitting facilities under Article 8 (1) of the Act;
2. Approval of an extension of the period for taking measures under the proviso to Article 8 (5) of the Act and the proviso to Article 8-2 (3) of the Act;

3. Designation of facilities subject to reporting and the public announcement of the designation thereof under Article 8-2 (1) of the Act;
 4. Acceptance of reports on the operation of and modifications to malodor-emitting facilities under Article 8-2 (2) of the Act;
 5. An order to make improvements under Article 10 of the Act;
 6. An order to suspend operation under Article 11 of the Act;
 7. Imposition and collection of penalty surcharges under Article 12 of the Act;
 8. An order to suspend the use and an order to close under Article 13 of the Act;
 9. Formulation and implementation of countermeasures to prevent malodor in communities under Article 16-7 (1) of the Act;
 10. An order to submit reports and data, and testing under Article 17 of the Act;
 11. Hearings under subparagraphs 1 and 2 of Article 22 of the Act;
 12. Imposition and collection of administrative fines under Article 30 (1) 1 and (2) of the Act;
 13. Receipt of an improvement plan under Article 4.
- (4) The Minister of Environment shall entrust affairs concerning technical assistance for the reduction of malodor under Article 21 of the Act and Article 8-2 of this Decree to the Korea Environment Corporation under the Korea Environment Corporation Act pursuant to Article 24 (3) of the Act. <Newly Inserted by Presidential Decree No. 24135, Oct. 9, 2012; Presidential Decree No. 27278, Jun. 28, 2016>

Article 10 (Guidelines for Imposition of Administrative Fines)

- (1) Guidelines for the imposition of administrative fines under Article 30 (1) and (2) of the Act shall be as specified in attached Table.
- (2) Persons who have authority to impose administrative fines under Article 30 (1) and (2) of the Act shall be classified as follows: <Amended by Presidential Decree No. 27278, Jun. 28, 2016>
 1. In cases under Article 30 (1) 1 of the Act: The Mayor of a Special Self-Governing City, the Governor of a Special Self-Governing Province, the Mayor of a large city, or the head of a Si/Gun/Gu;
 2. In cases under Article 30 (1) 2 of the Act: The Minister of Environment;
 3. In cases under Article 30 (2) 1 of the Act: The Mayor/Do Governor or the Mayor of a large city;
 4. In cases under Article 30 (2) 2 of the Act: The Minister of Environment, the Mayor/Do Governor, or the Mayor of a large city.

ADDENDA

Article 1 (Enforcement Date)

This Decree shall enter into force on February 10, 2005.

Article 2 Omitted.

ADDENDA <Presidential Decree No. 20297, Sep. 28, 2007>

Article 1 (Enforcement Date)

This Decree shall enter into force on October 5, 2007. (Proviso Omitted.)

Articles 2 and 3 Omitted.

ADDENDA <Presidential Decree No. 22639, Jan. 26, 2011>

Article 1 (Enforcement Date)

This Decree shall enter into force on February 5, 2011.

Article 2 (Transitional Measures concerning Imposition of Administrative Fines)

(1) Where guidelines for the imposition of administrative fines apply to offenses committed before this Decree enters into force, notwithstanding the amended provisions of attached Table, the previous examples shall apply to such offenses.

(2) Administrative fines imposed due to offenses committed before this Decree enters into force shall be included in the computation of the number of times that offenses under the amended provisions of attached Table are committed.

ADDENDA <Presidential Decree No. 23267, Oct. 28, 2011>

Article 1 (Enforcement Date)

This Decree shall enter into force on October 29, 2011.

Articles 2 and 3 Omitted.

ADDENDUM <Presidential Decree No. 24135, Oct. 9, 2012>

This Decree shall enter into force on the date of its promulgation.

ADDENDA <Presidential Decree No. 25478, Jul. 16, 2014>

Article 1 (Enforcement Date)

This Decree shall enter into force on July 17, 2014.

Article 2 Omitted.

ADDENDUM <Presidential Decree No. 25613, Sep. 18, 2014>

This Decree shall enter into force on September 25, 2014.

ADDENDUM <Presidential Decree No. 27278, Jun. 28, 2016>

This Decree shall enter into force on July 28, 2016.

ADDENDUM <Presidential Decree No. 27735, Dec. 30, 2016>

This Decree shall enter into force on the date of its promulgation.