

# IMPROPER SOLICITATION AND GRAFT ACT

Act No. 13278, Mar. 27, 2015

Amended by Act No. 14183, May 29, 2016

## Article 1 (Purpose)

The purpose of this Act is to ensure that public servants, etc. perform their duties in a fair manner and to secure public confidence in public institutions, by prohibiting any improper solicitation made to public servants, etc., and by prohibiting public servants, etc. from receiving money, goods, etc.

## Article 2 (Definitions)

The definitions of terms used in this Act shall be as follows:

1. The term "public institution" means any of the following institutions and organizations:
  - (a) The National Assembly, courts, the Constitutional Court, Election Commissions, the Board of Audit and Inspection, the National Human Rights Commission, central administrative agencies (including institutions affiliated with the office of the President and the office of the Prime Minister) and institutions affiliated therewith, and local governments;
  - (b) Organizations related to public service as set forth in Article 3-2 of the Public Service Ethics Act;
  - (c) Institutions set forth in Article 4 of the Act on the Management of Public Institutions;
  - (d) Schools of each level established under the Elementary and Secondary Education Act, the Higher Education Act, the Early Childhood Education Act, or any other statute; and educational foundations established under the Private School Act;
  - (e) Press organizations defined by subparagraph 12 of Article 2 of the Act on Press Arbitration and Remedies, etc. for Damage Caused by Press Reports.
2. The term "public servant, etc." means any of the following public servants or persons engaging in public duties:
  - (a) Public officials specified by the State Public Officials Act or the Local Public Officials Act and persons recognized by other Acts as public officials in their qualification, appointment, educational training, service, remuneration, guarantee of status, etc.;
  - (b) Heads of organizations related to public service and institutions described in subparagraphs 1 (b) and (c), and executive officers and employees thereof;
  - (c) Heads and faculty members of schools of each level described in subparagraph 1 (d), and executive officers and employees of educational foundations described in subparagraph 1 (d);

(d) Representatives, executive officers, and employees of the press organizations described in subparagraph 1 (e).

3. The term “money, goods, etc.” means any of the following:

(a) Any and all financial interests, including money, securities, real estate, articles, complimentary accommodations, memberships to clubs and facilities, admission tickets for venues and performances, discount coupons, invitation tickets, entertainment tickets, or licenses and permissions to use real estate;

(b) Offering entertainment, including food and beverages, alcoholic beverages, or golf; or accommodations, including transportation or lodging;

(c) Other tangible or intangible financial benefits, such as cancelling debts, offering jobs, or granting rights and interests.

4. The term “head of a/the relevant institution” means the head of a public institution to which a public servant, etc. belongs.

### **Article 3 (Responsibility of the State, etc.)**

(1) The State shall endeavor to create working conditions in which public servants can perform their duties in a fair and disinterested manner.

(2) Public institutions shall endeavor to create a public service culture in which improper solicitations and acceptance of money, goods, etc. are not tolerated, in order to ensure that public servants, etc. perform their duties in a fair and disinterested manner.

(3) Public institutions shall create reasonable and appropriate protective measures in order to ensure that public servants, etc. will not be subject to any disadvantage for reporting a violation or taking any other action pursuant to this Act.

### **Article 4 (Obligations of Public Servants, etc.)**

(1) Public servants, etc. shall perform their duties in a fair and disinterested manner, without being influenced by their personal interests.

(2) Public servants, etc. shall behave in a fair and impartial manner in performing their duties, and shall not favor or discriminate against any person related to their duties.

### **Article 5 (Prohibition of Improper Solicitation)**

(1) No person shall make any of the following improper solicitations to any public servant, etc. performing his/her duties, directly or through a third party: <Amended by Act No. 14183, May 29, 2016>

1. Soliciting to process, in violation of statutes, such tasks as authorization, permission, license, patent, approval, inspection, qualification, test, certification, or verification, for which statutes (including Ordinances and Rules; hereinafter the same shall apply) prescribe requirements and which should be processed upon application by a duty-related party;

2. Soliciting to mitigate or remit administrative dispositions or punishments such as cancellation of authorization or permission, and imposition of taxes, charges, administrative fines, penalty surcharges, charges for compelling compliance, penalties, or disciplinary actions, in violation of statutes;

3. Soliciting to intervene or exert influence in the appointment, promotion, assignment or reassignment, or any other personnel matter with respect to any public servant, etc., in violation of statutes;
  4. Soliciting to select or reject a person, in violation of statutes, for a position which intervenes in the decision-making of a public institution, such as a member of various deliberation, decision-making, and arbitration committees, and a member of a committee for a test or screening administered by a public institution;
  5. Soliciting to select or reject a specific individual, organization, or juridical person, in violation of statutes, in any award, prize, or selection of outstanding institutions or persons, administered by a public institution;
  6. Soliciting to disclose, in violation of statutes, duty-related confidential information on tender, auction, development, examination, patent, military affairs, taxation, etc.;
  7. Soliciting to select or reject a specific individual, organization, or juridical person as a party to a contract, in violation of statutes governing contracts;
  8. Soliciting to intervene or exert influence so that subsidies, incentives, contributions, investments, grants, funds, etc., are assigned to, provided to, invested in, deposited in, lent to, contributed to, or financed to a specific individual, organization, or juridical person, in violation of statutes;
  9. Soliciting to allow a specific individual, organization, or juridical person to buy, exchange, use, benefit from, or possess goods and services that are produced, supplied, or managed by public institutions, at prices different from what is prescribed by statutes, or against normal transaction practices;
  10. Soliciting to process or manipulate affairs of schools of each level, such as admission, grades, or performance tests, in violation of statutes;
  11. Soliciting to process affairs related to military service, such as physical examination for military service, assignment to a military unit, or appointment to a position, in violation of statutes;
  12. Soliciting to conduct various assessments or judgements implemented by public institutions, or manipulate the results thereof, in violation of statutes;
  13. Soliciting to make a specific individual, organization, or juridical person subject to or exempt from administrative guidance, enforcement activities, audit, or investigation; to manipulate the outcome thereof; or to ignore any illegality, in violation of statutes;
  14. Soliciting to process investigation of a case, trial, adjudication, decision, mediation, arbitration, reconciliation, or other equivalent affairs, in violation of statutes;
  15. Soliciting a public servant, etc. to act beyond the limits of his/her position and authority granted by statutes, or to take any action for which he/she lacks legitimate authority, regarding any and all affairs that may be the subject-matter of improper solicitation as prescribed by subparagraphs 1 through 14.
- (2) Notwithstanding paragraph (1), this Act shall not apply to any of the following cases:
1. Where demanding particular action such as relief or settlement of infringement on rights in accordance with the procedures or methods prescribed by the Petition Act, the Civil Petitions Treatment

Act, the Administrative Procedures Act, the National Assembly Act, or other statutes or standards (including regulations, rules, and standards of the public institutions set forth in subparagraphs 1 (b) through (e) of Article 2; hereinafter the same shall apply); or suggesting or proposing enactment, amendment, or rescission of any statute, or standards relevant thereto;

2. Where publicly demanding a public servant, etc. to take a particular action;
3. Where an elected public servant, political party, civil society organization, etc., conveys a third party's complaints and grievances for the public interest; make suggestions or proposals regarding establishment, amendment, or rescission of any statute or standard; or make suggestions or proposals regarding improvement of policies, projects, systems, or the administration thereof;
4. Where requesting or demanding a public institution to complete a certain duty within a statutory deadline, or asking confirmation or inquiring about the progress or outcome thereof;
5. Where requesting or demanding confirmation or certification for duties or legal relations;
6. Where demanding explanation or interpretation of statutes, systems, procedures, etc., related to duties, in the form of inquiry or consultation;
7. Any other conduct recognized to be consistent with societal rules and norms.

#### **Article 6 (Prohibition of Performance of Duties as Solicited)**

Upon receipt of an improper solicitation, no public servant, etc. shall perform his/her duties as solicited.

#### **Article 7 (Reporting and Processing Improper Solicitations)**

(1) Upon receipt of an improper solicitation, a public servant, etc. shall notify the person making such solicitation that it constitutes an improper solicitation and clearly express his/her intention to reject it.

(2) If a public servant, etc. receives the same improper solicitation again, even after taking action as described in paragraph (1), he/she shall report such fact to the head of the relevant institution in writing (including electronic documents; hereinafter the same shall apply).

(3) Upon receipt of a report pursuant to paragraph (2), the head of the relevant institution shall promptly verify whether the subject-matter of the report constitutes an improper solicitation, by examining the background, purport, details, and evidence, etc. of the report.

(4) If the head of a relevant institution becomes aware that there was an improper solicitation or if he/she deems that performance of relevant duties may be hindered during the process of reporting or verifying an improper solicitation under paragraphs (2) and (3), the head of the relevant institution may take any of the following measures against the public servant, etc. who received the improper solicitation;

1. Provisional suspension from the duties;
2. Designation of a substitute for the duties;
3. Transfer of position;
4. Any other measure prescribed by the National Assembly Regulations, the Supreme Court Regulations, the Constitutional Court Regulations, the National Election Commission Regulations, or Presidential Decrees.

(5) Notwithstanding paragraph (4), the head of the relevant institution may let the public servant, etc. continue his/her duties in any of the following cases. In such cases, the head of the relevant institution shall have the officer in charge, provided for in Article 20, of the relevant institution, or another public servant, etc. verify and check regularly as to whether the public servant, etc. performs his/her duties in a fair manner:

1. Where it is highly impracticable to replace the public servant, etc. performing the duties;
  2. Where the impact on the performance of duties by the public servant, etc. is insignificant;
  3. Where the necessity of continuing the duties is greater in the light of protecting national security, developing the national economy, and promoting any other public interest.
- (6) A public servant, etc. may also submit a report described in paragraph (2) to a supervisory institution, the Board of Audit and Inspection, an investigative agency, or the Anti-Corruption and Civil Rights Commission.
- (7) The head of a relevant institution may publish details of an improper solicitation and measures taken against it, to the extent not violating other statutes, on the website, etc. of the public institution.
- (8) Except as expressly provided in paragraphs (1) through (7), other matters necessary for reporting, verifying, processing, recording, managing, disclosing, etc., an improper solicitation shall be prescribed by Presidential Decree.

#### **Article 8 (Prohibition of Receipt of Money, Goods, etc.)**

- (1) No public servant, etc. shall accept, request, or promise to receive any money, goods, etc. exceeding one million won at a time or three million won in a fiscal year from the same person, regardless of any connection to his/her duties and regardless of any pretext such as donation, sponsorship, gift, etc.
- (2) No public servant, etc. shall, in connection with his/her duties, accept, request, or promise to receive any money, goods, etc. not exceeding the amount prescribed by paragraph (1), regardless of whether the money, goods, etc. are given as part of any quid pro quo.
- (3) An honorarium for an outside lecture, etc. described in Article 10, or any of the following shall not constitute money, goods, etc., the receipt of which is prohibited by paragraph (1) or (2):
1. Money, goods, etc. that a public institution offers to its public servants, etc. and seconded public servants, etc.; or a senior public servant, etc. offers to subordinate public servants, etc. for purposes of consolation, encouragement, reward, etc.;
  2. Money, goods, etc. the value of which is within the limits specified by Presidential Decree, in the form of food and beverages, congratulatory or condolence money, gifts, etc. offered for purposes of facilitating performance of duties, social relationships, rituals, or aid;
  3. Money, goods, etc. offered from a legitimate source of right such as payment of debts (excluding donation) incurred in a private transaction;
  4. Money, goods, etc. provided by relatives (relatives defined in Article 777 of the Civil Act) of a public servant, etc.;

5. Money, goods, etc. provided by employees' mutual aid societies, clubs, alumni associations, hometown associations, friendship clubs, religious groups, social organizations, etc., related to a public servant, etc. to their members in accordance with the rules prescribed by respective organizations; and money, goods, etc. offered by those who have long-term and continuous relationships with a public servant, etc., such as a member of the aforementioned groups, to the public servant, etc. who is in need due to a disease, disaster, etc.;

6. Money, goods, etc., provided uniformly in a normally accepted range by an organizer of an official event related to the duties of a public servant, etc. to all participants thereof, in the form of transportation, accommodation, food and beverages, etc.;

7. Souvenirs, promotional goods, etc. to be distributed to multiple unspecified persons, or awards or prizes given in a contest, a raffle, or a lottery;

8. Money, goods, etc. permitted by other statutes, standards, or societal rules and norms.

(4) No spouse of a public servant, etc. shall, in connection with the duties of the public servant, etc., receive, request, or promise to receive any money, goods, etc. that public servants, etc. are prohibited from accepting (hereinafter referred to as "prohibited money, goods, etc.") under paragraph (1) or (2).

(5) No person shall offer, promise to offer, or express any intention to offer any prohibited money, goods, etc. to any public servant, etc. or to his/her spouse.

#### **Article 9 (Reporting and Disposal of Prohibited Money, Goods, etc.)**

(1) A public servant, etc. shall report in writing to the head of the relevant institution, without delay, in any of the following cases:

1. Where the public servant, etc. receives prohibited money, goods, etc., or receives a promise or an expression of intention to offer them;

2. Where the public servant, etc. becomes aware that his/her spouse received prohibited money, goods, etc., or a promise or an expression of intention to offer them.

(2) If a public servant, etc. receives prohibited money, goods, etc., or a promise or an expression of intention to offer them, or if a public servant, etc. becomes aware that his/her spouse received prohibited money, goods, etc. or a promise or an expression of intention to offer them, the public servant, etc. shall return them or have them returned, without delay, to the provider, manifest an intention to reject them, or have such intension manifested: Provided, That where the received money, goods, etc. falls under any of the following cases, the public servant, etc. shall deliver them or have them delivered to the head of the relevant institution:

1. Where they are subject to loss, decay, deterioration, etc.;

2. Where the provider of the relevant money, goods, etc. is unknown;

3. Any other situation where it is difficult to return the money, goods, etc. to the provider.

(3) If the head of a relevant institution receives a report pursuant to paragraph (1), or if money, goods, etc. are delivered to him/her pursuant to the proviso to paragraph (2), and he/she deems that they constitute prohibited money, goods, etc., the head of the relevant institution shall have them returned or delivered, or

have an intention to reject expressed; where the head of the relevant institution deems an investigation is necessary, he/she shall notify an investigative agency, without delay, of the details thereof.

(4) If the head of a relevant institution becomes aware that a public servant, etc. or his/her spouse received prohibited money, goods, etc., or a promise or an expression of intention to offer them, and the head of the relevant institution deems an investigation is necessary, the head of the relevant institution shall inform an investigative agency, without delay, of the details thereof.

(5) The head of a relevant institution may take such measures as prescribed in each subparagraph of Article 7 (4) and paragraph (5) of the same Article against a public servant, etc., if the head of the relevant institution becomes aware that the public servant, etc. or his/her spouse received prohibited money, goods, etc., or a promise or an expression of intention to offer them, or if the head of the relevant institution deems that performance of duties may be hindered during the process of reporting, returning, or delivering the prohibited money, goods, etc. or notifying an investigative agency, pursuant to paragraphs (1) through (4).

(6) A public servant, etc. may make the report or delivery, described in paragraph (1) or in the proviso to paragraph (2), to a supervisory institution, the Board of Audit and Inspection, an investigative agency, or the Anti-Corruption and Civil Rights Commission.

(7) The head of a relevant institution shall demand a spouse of a public servant, etc. to return money, goods, etc. to the provider, if the head of the relevant institution, in receipt of a report under paragraph (1) 2 from a public servant, etc., deems that the money, goods, etc., which the spouse of the public servant, etc. refuses to return, constitutes prohibited money, goods, etc.

(8) Except as expressly provided in paragraphs (1) through (7), any other matter necessary for reporting or disposing of prohibited money, goods, etc. shall be prescribed by Presidential Decree.

#### **Article 10 (Restriction on the Acceptance of Honoraria for Outside Lectures, etc.)**

(1) No public servant, etc. shall accept money exceeding the limits specified by Presidential Decree as an honorarium for a lecture, presentation, or contribution related to his/her duties or requested based on de facto influence arising from his/her position or responsibilities (hereinafter referred to as "outside lecture, etc.") at a training course, promotional event, forum, seminar, public hearing, or any other meeting.

(2) If a public servant, etc. conducts an outside lecture, etc., he/she shall report, in advance, in writing, the details of the request for the outside lecture, etc., to the head of the relevant institution, as prescribed by Presidential Decree: Provided, That the foregoing shall not apply if the request for the outside lecture, etc. is made by the State or a local government.

(3) If it is impractical to make a report on the outside lecture, etc. in advance, as prescribed in the main sentence of paragraph (2), the public servant, etc. may report in writing within two days from the day when the outside lecture, etc. is finished.

(4) If the head of a relevant institution deems an outside lecture, etc., reported by a public servant, etc. pursuant to paragraph (2), may hinder fair performance of duties, the head of the relevant institution may restrict the outside lecture, etc.

(5) If a public servant, etc. received an honorarium exceeding the limits described in paragraph (1), he/she shall report to the head of the relevant institution, etc. and return, without delay, the excess amount to the provider, as prescribed by Presidential Decree.

#### **Article 11 (Restriction on Actions related to Public Duties by Private Persons Performing Public Duties)**

(1) Articles 5 through 9 shall apply mutatis mutandis to the performance of public duties by any of the following persons (hereinafter referred to as "private person performing public duties"):

1. A member, who is not a public servant, of any committee established under the Act on the Establishment and Management of Councils, Commissions and Committees under Administrative Agencies, or any other statute;
2. A juridical person or an organization, an organ thereof, or an individual to which authority has been delegated or entrusted by a public institution under statutes;
3. An individual dispatched from the private sector to a public institution in order to perform public duties;
4. An individual, a juridical person, or an organization that conducts deliberation or assessment in relation to public duties in accordance with statutes.

(2) Where Articles 5 through 9 apply mutatis mutandis to private persons performing public duties under paragraph (1), "public servant, etc." shall be construed as "private person performing public duties"; and "head of a/the relevant institution" shall be construed as "person who falls into any of the following categories":

1. A member of a committee described in paragraph (1) 1: The head of the public institution where the committee is established;
2. A juridical person or an organization, an organ thereof, or an individual described in paragraph (1) 2: The head of the supervisory institution or public institution that delegates or entrusts the authority;
3. An individual described in paragraph (1) 3: The head of the public institution where the individual is dispatched;
4. An individual, a juridical person, or an organization described in paragraph (1) 4: The head of the public institution for which the said public duties are performed.

#### **Article 12 (Comprehensive Administration of Affairs regarding Prevention of Improper Solicitation, etc. to Public Servants, etc.)**

The Anti-Corruption and Civil Rights Commission shall take charge of each of the following affairs in accordance with this Act:

1. Improvement of systems for prohibiting improper solicitations and for prohibiting or restricting acceptance of money, goods, etc.; and establishment and implementation of plans for training and promotion;
2. Formulation and dissemination of criteria for types of improper solicitation, etc., criteria for judgment, and guidelines for preventive measures;

3. Guidance and consultation for, and receiving and processing reports on improper solicitation, etc.;
4. Protecting and rewarding persons who report improper solicitation, etc.;
5. Fact-finding investigation and collection, management, analysis, etc. of documentation and evidence necessary for carrying out the affairs described in subparagraphs 1 through 4.

#### **Article 13 (Reporting Violations, etc.)**

(1) If anyone discovers that a violation occurred or is occurring, he/she may report to any of the following authorities:

1. The public institution where the violation of this Act occurs or a supervisory institution;
2. The Board of Audit and Inspection or investigative agencies;
3. The Anti-Corruption and Civil Rights Commission.

(2) No one who reports pursuant to paragraph (1) shall receive protection or rewards under this Act in any of the following cases:

1. Where the person filed the report even though he/she was aware or could have been aware that the report contained false details;
2. Where the person requested money, goods, etc. or special privileges in employment relationship, in return for the reporting;
3. Any other case where the person reported for some other improper purpose.

(3) A person who intends to submit a report pursuant to paragraph (1) shall submit the subject-matter of the report and evidence, etc., along with a signed document stating his/her personal details and the purport, purpose, and details of the report.

#### **Article 14 (Action Taken on Reports)**

(1) If an institution set forth in Article 13 (1) 1 or 2 (hereinafter referred to as "inspection agency") receives a report pursuant to Article 13 (1) or receives a report referred from the Anti-Corruption and Civil Rights Commission pursuant to Article 13 (2), it shall inspect, audit, or investigate details of the report as necessary.

(2) Upon receipt of a report pursuant to Article 13 (1), the Anti-Corruption and Civil Rights Commission shall first verify the facts of the report with the reporting person, then refer the case to an inspection agency as prescribed by Presidential Decree, and notify the reporting person of such fact.

(3) The inspection agency shall notify the reporting person and the Anti-Corruption and Civil Rights Commission (this applies only when the case was referred from the Anti-Corruption and Civil Rights Commission) of its findings within ten days of the day when the inspection, audit, or investigation is completed under paragraph (1), and then, based on the results of the inspection, audit, or investigation, take necessary follow-up measures, such as filing an indictment, issuing a notification of a violation subject to an administrative fine, or taking a disciplinary action.

(4) If the Anti-Corruption and Civil Rights Commission is notified by an inspection agency of the results of an inspection, audit, or investigation pursuant to paragraph (3), it shall, without delay, inform the reporting person of the results of the inspection, audit, or investigation.

(5) If a reporting person is notified of the results of an inspection, audit, or investigation pursuant to paragraph (3) or (4), he/she may file an appeal with the inspection agency; if the reporting person is notified of the results of an inspection, audit, or investigation pursuant to paragraph (4), he/she may also file an appeal with the Anti-Corruption and Civil Rights Commission.

(6) If the results of the inspection, audit, or investigation by the inspection agency is deemed insufficient, the Anti-Corruption and Civil Rights Commission may, within thirty days of receipt of the results, request the inspection agency to reinspect the case, citing reasonable grounds such as submission of new evidence.

(7) Upon receipt of a reinspection request under paragraph (6), an inspection agency shall notify the Anti-Corruption and Civil Rights Commission of the results within seven days after completing the reinspection. In such cases, the Anti-Corruption and Civil Rights Commission shall provide the reporting person with a summary of the reinspection immediately after receiving such notification.

#### **Article 15 (Protection of or Rewards to Reporting Persons, etc.)**

(1) No one may hinder anyone from filing any of the following reports, etc. (hereinafter referred to as "report, etc.") or coerce anyone who submitted a report, etc. (hereinafter referred to as "reporting person, etc.") into withdrawing such report, etc.:

1. Reports set forth in Article 7 (2) and (6);
2. Reports or delivery set forth in Article 9 (1), the proviso to Article 9 (2), and Article 9 (6);
3. Reports set forth in Article 13 (1);
4. Cooperation in the form of statements, testimony, provision of evidentiary materials, or other assistance, provided by a person other than those who reported pursuant to subparagraphs 1 through 3 during the course of: an inspection, an audit, an investigation, or a lawsuit regarding reports; or an inspection or a lawsuit regarding protective measures, etc.

(2) No one may take any disadvantageous measure (this refers to the disadvantageous measure described in subparagraph 6 of Article 2 of the Protection of Public Interest Reporters Act; hereinafter the same shall apply) against any reporting person, etc. on the grounds of the report, etc.

(3) Criminal punishment, administrative fines, disciplinary actions, or other administrative dispositions imposed on a violation of this Act may be mitigated or remitted, if the violator voluntarily reports his/her violation or if a violation of this Act, committed by the reporting person, etc. is discovered as a result of his/her report, etc.

(4) Articles 11 through 13, Article 14 (3) through (5), and Articles 16 through 25 of the Protection of Public Interest Reporters Act shall apply mutatis mutandis to protection, etc. of reporting persons, etc., except as expressly provided in paragraphs (1) through (3). In such cases, "public interest reporter, etc." shall be construed as "reporting person, etc."; and "public interest report, etc." shall be construed as "report, etc."

(5) If a report filed pursuant to Article 13 (1) either contributes to financial benefit or prevents any financial loss to a public institution; or if it enhances the public interest, the Anti-Corruption and Civil Rights Commission may pay a monetary award to the reporting person, etc.

(6) If a report filed pursuant to Article 13 (1) directly brings recovery of revenue, increase in revenue, or cost reduction for a public institution, the Anti-Corruption and Civil Rights Commission must pay a monetary reward to the reporting person at his/her request.

(7) Articles 68 through 71 of the Act on the Prevention of Corruption and the Establishment and Management of the Anti-Corruption and Civil Rights Commission, shall apply mutatis mutandis to requests for or payment of monetary awards and rewards, described in paragraphs (5) and (6). In such cases, “reporter of an act of corruption” shall be construed as “person who reported pursuant to Article 13 (1)”; and “report filed pursuant to this Act” shall be construed as “report filed pursuant to Article 13 (1).”

#### **Article 16 (Measures against Unlawful Performance of Duties)**

If the head of a public institution discovers that a public servant, etc. violated Article 5, 6, or 8, while or after performing his/her duties, the head of the public institution shall take necessary measures, such as suspension or cancellation of such duties.

#### **Article 17 (Recovery of Improper Benefits)**

If it becomes definite that the duties performed by a public servant, etc. in violation of Article 5, 6, or 8 are illegal, the head of the public institution shall recover any money, articles, or other financial benefits already paid or given to the other party of such duties.

#### **Article 18 (Prohibition of Divulging Confidential Information)**

No public servant, etc. who is performing or has performed any of the following duties, shall divulge any confidential information of which he/she became aware in the course of performing such duties: Provided, That the foregoing shall not apply in cases of disclosure described in Article 7 (7):

1. Duties related to the reports on and measures against improper solicitations described in Article 7;
2. Duties related to the reports on and disposal of prohibited money, goods, etc. described in Article 9.

#### **Article 19 (Training and Promotion, etc.)**

(1) The head of a public institution shall provide public servants, etc. with regular training on details of the prohibition of improper solicitations and acceptance of money, goods, etc. and shall receive from them signed pledges of compliance.

(2) The head of a public institution shall encourage the public to comply with this Act by such means as actively providing information on what is prohibited by this Act.

(3) The head of a public institution may request support from the Anti-Corruption and Civil Rights Commission, if necessary for the implementation of training and promotional activities described in paragraphs (1) and (2). In such cases, the Anti-Corruption and Civil Rights Commission shall cooperate actively.

#### **Article 20 (Designation of Officers in Charge of Prohibition, etc. of Improper Solicitations, etc.)**

The head of a public institution shall designate an officer in charge of prohibition, etc. of improper solicitations, etc., performing the following duties, from among the public servants, etc. of the public institution:

1. Training and consultation on matters regarding the prohibition of improper solicitations and acceptance of money, goods, etc.;
2. Receiving and processing reports and requests, and examining the details thereof pursuant to this Act;
3. Notification made by the head of the relevant institution to a court or an investigative agency, upon discovering any violation under this Act.

#### **Article 21 (Disciplinary Action)**

The head of a relevant institution, etc. shall take disciplinary action against any public servant, etc. who violates this Act or an order issued pursuant to this Act.

#### **Article 22 (Penalty Provisions)**

(1) Any of the following persons shall be subject to imprisonment with labor for not more than three years or a fine not exceeding 30 million won:

1. A public servant, etc. (including private persons performing public duties under Article 11) in violation of Article 8 (1): Provided, That the foregoing shall not apply if a public servant, etc. reported, returned, delivered, or expressed an intention to reject prohibited money, goods, etc., pursuant to Article 9 (1), (2) or (6);
2. A public servant, etc. (including private persons performing public duties under Article 11) who fails to report pursuant to Article 9 (1) 2 or Article 9 (6), although he/she is aware that his/her spouse received, requested, or promised to receive prohibited money, goods, etc. specified in Article 8 (1), in violation of Article 8 (4): Provided, That the foregoing shall not apply if a public servant, etc. or his/her spouse returned, delivered, or expressed an intention to reject prohibited money, goods, etc. pursuant to Article 9 (2);
3. A person who offers, promises to offer, or expresses an intention to offer prohibited money, goods, etc., specified in Article 8 (1), to a public servant, etc. (including private persons performing public duties under Article 11) or his/her spouse, in violation of Article 8 (5);
4. A person who informs others of, discloses to others, or publicizes personal information on a reporting person, etc. or other facts from which the identity of the reporting person, etc. can be inferred, in violation of Article 12 (1) of the Protection of Public Interest Reporters Act, which applies mutatis mutandis pursuant to Article 15 (4);
5. A public servant, etc. who divulges confidential information of which he/she became aware in the course of performing his/her duties, in violation of Article 18.

(2) Any of the following persons shall be subject to imprisonment with labor for not more than two years or a fine not exceeding 20 million won:

1. A public servant, etc. (including private persons performing public duties under Article 11) who accepts improper solicitation and performs his/her duties as solicited, in violation of Article 6;
2. A person who takes any disadvantageous measure, set forth in subparagraph 6 (a) of Article 2 of the Protection of Public Interest Reporters Act, against a reporting person, etc., in violation of Article 15 (2);

3. A person who fails to fulfill a decision for a protective measure, which was finalized under Article 21 (2) of the Protection of Public Interest Reporters Act, applying mutatis mutandis pursuant to Article 15 (4), or finalized through an administrative litigation.

(3) Any of the following persons shall be subject to imprisonment with labor for not more than one year or a fine not exceeding 10 million won:

1. A person who hinders anyone from filing reports, etc. or coerces anyone into withdrawing reports, etc., in violation of Article 15 (1);

2. A person who takes any disadvantageous measure set forth in subparagraphs 6 (b) through (g) of Article 2 of the Protection of Public Interest Reporters Act, against a reporting person, etc., in violation of Article 15 (2).

(4) Money, goods, etc. described in paragraph (1) 1 through 3 shall be confiscated: Provided, That if it is impossible to confiscate all or part of such money, goods, etc., equivalent monetary value thereof shall be collected.

### **Article 23 (Imposition of Administrative Fines)**

(1) Any of the following persons shall be subject to an administrative fine not exceeding 30 million won:

1. A public servant, etc. (including private persons performing public duties under Article 11) who makes an improper solicitation to another public servant, etc. (including private persons performing public duties under Article 11) for a third party, in violation of Article 5 (1): Provided, That no administrative fine shall be imposed if criminal punishment is imposed under the Criminal Act or any other Act; if criminal punishment is imposed after an administrative fine is imposed, the imposition of the administrative fine shall be revoked;

2. A person who refuses to submit relevant materials, make an appearance, or submit a written statement, in violation of Article 19 (2) and (3) of the Protection of Public Interest Reporters Act, applying mutatis mutandis pursuant to Article 15 (4) (including cases where the said Article 19 (2) and (3) apply mutatis mutandis pursuant to Article 22 (3) of the same Act).

(2) A person (excluding persons subject to paragraph (1) 1), who makes an improper solicitation to a public servant, etc. (including private persons performing public duties under Article 11) for a third party, in violation of Article 5 (1), shall be subject to an administrative fine not exceeding 20 million won: Provided, That no administrative fine shall be imposed if criminal punishment is imposed under the Criminal Act or any other Act; if criminal punishment is imposed after an administrative fine is imposed, the imposition of the administrative fine shall be revoked.

(3) A person (excluding persons subject to paragraph (1) 1 and (2)) who makes an improper solicitation to a public servant, etc. (including private persons performing public duties under Article 11), through a third party, in violation of Article 5 (1), shall be subject to an administrative fine not exceeding ten million won: Provided, That no administrative fine shall be imposed if criminal punishment is imposed under the Criminal Act or any other Act; if criminal punishment is imposed after an administrative fine is imposed, the imposition of the administrative fine shall be revoked.

(4) A public servant, etc. who fails to report and return pursuant to Article 10 (5) shall be subject to an administrative fine not exceeding five million won.

(5) Any of the following persons shall be subject to an administrative fine of two to five times the monetary value of the money, goods, etc. related to the violation: Provided, That no administrative fine shall be imposed if criminal punishment (including confiscation and collection) is imposed under Article 22 (1) 1 through 3, the Criminal Act, or any other Act; if criminal punishment is imposed after an administrative fine is imposed, the imposition of the administrative fine shall be revoked:

1. A public servant, etc. who violates Article 8 (2) (including private persons performing public duties under Article 11): Provided, That the foregoing shall not apply if the public servant, etc. reported, returned, delivered, or expressed an intention to reject prohibited money, goods, etc. pursuant to Article 9 (1), (2) or (6);

2. A public servant, etc. (including private persons performing public duties under Article 11) who fails to report pursuant to Article 9 (1) 2 or Article 9 (6), although he/she is aware that his/her spouse received, requested, or promised to receive prohibited money, goods, etc. specified in Article 8 (2), in violation of Article 8 (4): Provided, That the foregoing shall not apply if the public servant, etc. or his/her spouse returned, delivered, or expressed an intention to reject prohibited money, goods, etc. pursuant to Article 9 (2);

3. A person who offers, promises to offer, or expresses an intention to offer prohibited money, goods, etc., specified in Article 8 (2), to a public servant, etc. (including private persons performing public duties under Article 11) or his/her spouse, in violation of Article 8 (5).

(6) Notwithstanding paragraphs (1) through (5), no administrative fine shall be imposed after any resolution is passed to impose disciplinary additional charges under the State Public Officials Act, the Local Public Officials Act, or any other Act; after any administrative fine is imposed, no resolution shall be passed to impose any disciplinary additional charges.

(7) The head of a relevant institution shall notify a competent court, having jurisdiction over cases of administrative fines under the Non-Contentious Case Procedure Act, of a violation committed by those subject to the administrative fines set forth in paragraphs (1) through (5).

#### **Article 24 (Joint Penalty Provisions)**

If a representative of a juridical person or an organization; or an agent, an employee or any other worker employed by a juridical person, an organization, or an individual, commits, in connection with the affairs of the juridical person, the organization, or the individual, any of the violations set forth in: Article 22 (1) 3, excluding where the provider of the money, goods, etc. is a public servant, etc. (including private persons performing public duties to whom Article 8 applies mutatis mutandis pursuant to Article 11); Article 23 (2); Article 23 (3); or Article 23 (5) 3, excluding where the provider of the money, goods, etc. is a public servant, etc. (including private persons performing public duties to whom Article 8 applies mutatis mutandis pursuant to Article 11), not only shall the violator be punished but the juridical person, the organization, or the individual shall also be subject to the fines or administrative fines specified in

relevant provisions: Provided, That the foregoing shall not apply if the juridical person, the organization, or the individual was not neglect in paying due attention to and supervising the relevant affairs, in order to prevent such violation.

#### ADDENDA

##### **Article 1 (Enforcement Date)**

This Act shall enter into force one year and six months after the date of its promulgation.

##### **Article 2 (Applicability to Reports on Prohibited Money, Goods, etc.)**

@Article 9 (1) shall begin to apply after this Act enters into force, to cases specified under each subparagraph of Article 9 (1).

##### **Article 3 (Applicability to Restriction of Acceptance of Honoraria for Outside Lectures, etc.)**

@Article 10 (1) shall apply to outside lectures, etc. conducted after this Act enters into force.

#### ADDENDA <Act No. 14183, May 29, 2016>

##### **Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation. (Proviso Omitted.)

##### **Articles 2 through 5 Omitted.**

Last updated : 2019-12-10