

# **The Improper Solicitation and Graft Act**

Act No. 13278, Mar. 27, 2015

## **Chapter 1. General Provisions**

### **Article 1 (Purpose)**

The purpose of this Act is to ensure that public officials and relevant persons fulfill their duties uprightly and to secure public confidence in public institutions by forbidding improper solicitations to public officials and relevant persons and by prohibiting them from accepting financial or other advantages.

### **Article 2 (Definitions)**

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

1. The term “public institution” means any of the following agencies or organizations:
  - (a) The National Assembly, courts, Constitutional Court, election commissions, Board of Audit and Inspection, National Human Rights Commission, central administrative agencies (including organizations belonging to the President and Prime Minister) and institutions affiliated therewith, and local governments;
  - (b) Public service-related organizations as prescribed in Article 3-2 of the Public Service Ethics Act;
  - (c) Organizations as prescribed in Article 4 of the Act on the Management of Public Institutions;
  - (d) Schools of various levels established under the Elementary and Secondary Education Act, Higher Education Act, Early Childhood Education Act, and other Acts and subordinate statutes, as well as educational corporations incorporated under the Private School Act; and
  - (e) Media companies as prescribed in Subparagraph 12 of Article 2 of the Act on Arbitration and Remedies, etc., for Damage Caused by Press Reports.
2. The term “public official or relevant person” means any of the following public officials or employees performing public duties
  - (a) Civil servants under the State Public Officials Act or Local Public Officials Act, and persons deemed by other Acts as civil servants in terms of their qualification, appointment, educational training, service, remuneration, guarantee of tenure and so on;

- (b) The heads of public service-related organizations and public institutions prescribed in Items (b) and (c) of Subparagraph 1, and employees thereof;
  - (c) The heads of schools of various levels and educational corporations prescribed in Item (d) of Subparagraph 1, and employees thereof; and
  - (d) The representatives and employees of media companies as prescribed in Item (e) of Subparagraph 1.
3. The term “financial or other advantage” means any of the following advantages:
- (a) Any financial interest, such as money, securities, real estate, goods, accommodation vouchers, facilities memberships, admission tickets, discount coupons, complimentary tickets, tickets for entertainment, entitlements to use real estate, etc.;
  - (b) Offering of entertainment, such as food and drink, alcoholic beverages and golf, or conveniences, such as transportation and accommodation; and
  - (c) Other tangible and intangible financial benefits, such as cancellation of debts, offering of employment opportunities, and grant of rights and interests.
4. The term “head of the relevant agency” means a head of a public institution to which the public official or relevant person in question belongs.

### **Article 3 (Duties of the State and Public Institutions)**

- (1) The State shall strive to guarantee working conditions under which public officials are able to perform their duties in a fair and upright manner.
- (2) Public institutions shall strive to build a culture in public service under which improper solicitations and acceptance of financial or other advantages are not tolerated, to ensure that public officials or relevant persons perform their duties in a fair and upright manner.
- (3) Public institutions shall take the protective measures necessary to ensure that public officials or relevant persons will not be subject to any disadvantage on grounds of reporting a violation or take any other measure pursuant to this Act.

### **Article 4 (Duties of Public Officials or Relevant Persons)**

- (1) Public officials or relevant persons shall perform their duties in a fair and upright manner free from the influence of any personal interest.
- (2) Public officials or relevant persons shall act impartially in performing their duties, and shall not offer

advantage to or discriminate against any person related to their duties.

## **Chapter 2. Prohibition of Improper Solicitations**

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

(1) No one shall solicit any public official or relevant person performing his or her duties, directly or through a third party, to do any of the following improper acts:

1. Exerting influence so that authorization, permission, license, patent, approval, inspection, examination, test, certification, verification or any other duties, which are handled upon receiving an application from a duty-related party as prescribed by Acts and subordinate statutes (including ordinances and rules; hereinafter the same shall apply), are managed in violation of Acts and subordinate statutes;
2. Mitigating or remitting various administrative dispositions or punishments, such as cancellation of authorization or permission, and imposition of taxes, charges, fines for negligence, penalty surcharges, charges for compelling compliance, penalties, or disciplinary actions in violation of Acts and subordinate statutes;
3. Intervening or exerting influence in the appointment, promotion, job transfer or any other personnel management of public officials or relevant persons in violation of Acts and subordinate statutes;
4. Trading in influence in violation of Acts and subordinate statutes so that a person is appointed to or rejected from a position which intervenes in the decision-making of a public institution, including a member of various deliberation, decision-making, and arbitration committees, as well as a member of a committee for a test or screening administered by a public institution;
5. Trading in influence in violation of Acts and subordinate statutes so that a specific individual, organization, or legal person is chosen or rejected in the selection by a public institution for the recipient individual or organization of any award, prize, or commendation for outstanding performance;
6. Trading in influence so that duty-related confidential information on tender, auction, development, test, patent, military affair, taxation, etc., is disclosed in violation of Acts and subordinate statutes;
7. Trading in influence so that a specific individual, organization, or legal person is selected or rejected as a party to a contract in violation of Acts and subordinate statutes related to the contract;
8. Intervening or exerting influence so that subsidies, incentives, contributions, investments, grants, funds, etc., are assigned to, provided to, invested in, deposited in, lent to, used to make contributions to, or finance a specific individual, organization, or legal person in violation of related Acts and

subordinate statutes;

9. Trading in influence so that a specific individual, organization or legal person buys, exchanges, uses, benefits from or possesses goods and services that are produced, provided or managed by public institutions beyond the monetary value prescribed by Acts and subordinate statutes or against normal transaction practices;
10. Trading in influence so that admission, grades, performance tests or other matters related to schools of various levels are handled and manipulated in violation of Acts and subordinate statutes;
11. Trading in influence so that physical examination for conscripts, assignment to a military unit, appointment or any other matters related to military service are handled in violation of Acts and subordinate statutes;
12. Trading in influence so that, in various assessments and judgments performed by public institutions, the assessment or judgment is made in violation of Acts and subordinate statutes or the results are manipulated;
13. Trading in influence so that a specific individual, organization, or legal person is selected or rejected as subject-matter of administrative guidance, control, inspection, or examination, the outcome thereof is manipulated, or discovered violations are ignored in violation of Acts and subordinate statutes;
14. Trading in influence so that the investigation, judgment, adjudication, decision, conciliation, arbitration, or settlement of a case or any other equivalent function is handled in violation of Acts and subordinate statutes; and
15. Exerting official authority by a public official or relevant person beyond the limits of his or her position and authority granted by Acts and subordinate statutes, or doing any act for which a public official or relevant person lacks legitimate authority regarding the duties that may be subject-matter of the improper solicitation prescribed by Subparagraphs 1 through 14.

(2) Notwithstanding the provisions of Paragraph (1), this Act shall not apply to any of the following cases:

1. Requesting certain actions, such as asking for the remedy against or resolution of infringement on a right, or suggesting or recommending the establishment, amendment, or rescission of related Acts and subordinate statutes, and standards in accordance with the procedures and methods prescribed by the Petition Act, Civil Petitions Treatment Act, Administrative Procedures Act, National Assembly Act, other Acts and subordinate statutes, and standards (including rules, policy and standards of the public institutions as prescribed in Items 2(1)(b) through (e); hereinafter the same shall apply);
2. Publicly soliciting a public official or relevant person to take a certain action;
3. Where an elected public official, political party, civil society organization, etc., conveys a third

party's complaints and grievances for the public interest, or suggests or recommends establishing, amending, or repealing any Acts and subordinate statutes and standards, or improving policies, projects, systems, and their management;

4. Requesting or demanding that a public institution complete a certain duty within a statutory deadline, or inquiring or asking verification about the progress or outcome thereof;
5. Applying or making a request for verification or certification of a certain duty or juristic relations;
6. Requesting explanation or interpretation of systems, procedures or Acts and subordinate statutes related to a certain duty in a form of inquiry or consultation; and
7. Any other conduct not deemed as defying social norms.

#### **Article 6 (Prohibition of Performing Duties as Directed by Improper Solicitations)**

No public official or relevant person who receives an improper solicitation shall perform his or her duties as directed thereby.

#### **Article 7 (Reporting and Handling of Improper Solicitations)**

- (1) If a public official or relevant person receives an improper solicitation, he or she shall notify the person who made the improper solicitation that the solicitation is improper and clearly express an intention to refuse the solicitation.
- (2) If a public official or relevant person receives the same improper solicitation again even though he or she took the measure as prescribed in Paragraph (1), he or she shall report such fact to the head of the relevant agency in writing (including electronic documents; hereinafter the same shall apply).
- (3) A head of the relevant agency in receipt of a report under Paragraph (2) shall promptly verify whether the subject-matter of the report constitutes an improper solicitation by examining the background, purport, details and evidence of the report.
- (4) A head of the relevant agency may take any of the following measure against a public official or relevant person who received an improper solicitation should the head of the relevant agency be aware of such fact or if it is deemed that the performance of the duties of the public official or relevant person may be hindered during the process of reporting the improper solicitation and verifying the report under Paragraphs (2) and (3):
  1. Provisional suspension of performing the duties;
  2. Designation of a substitute;

3. Change of position; and
  4. Any other measures as provided by the National Assembly Regulations, Supreme Court Regulations, Constitutional Court Regulations, National Election Commission Regulations or Presidential Decree.
- (5) Notwithstanding Paragraph (4), a head of the relevant agency may let the public official or relevant person continue his or her duties in any of the following cases. In this case, the head of the relevant agency shall have an official in charge who belongs thereto under Article 20 or other public official or relevant person verify and check regularly as to whether the public official or relevant person performs his or her duties uprightly.
1. In the event that it is very difficult to find a substitute for the public official or relevant person who can perform the duties;
  2. In the event that the performance of the duties of the public official or relevant person is marginally affected; and
  3. In the event that 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 official or relevant person may submit a report as prescribed in Paragraph (2) to a supervisory body, the Board of Audit and Inspection, an investigative agency or the Anti-Corruption and Civil Rights Commission.
- (7) A head of the relevant agency may disclose the details of an improper solicitation and the measures taken on the internet homepage of the public institution to the extent it does not violate other Acts and subordinate statutes.
- (8) Any other matters necessary to report, verify, handle, record, manage and disclose an improper solicitation other than those provided under Paragraphs (1) through (7) shall be prescribed by Presidential Decree.

### **Chapter 3. Prohibition of Acceptance of Financial or other Advantages**

#### **Article 8 (Prohibition of Acceptance of Financial or other Advantages)**

- (1) No public official or relevant person shall accept, request, or promise to receive, any financial or other advantage in excess of one million won at a time or three million won in a fiscal year from the same person, regardless of the relationship between such offer and his or her duties, and the motive for such offer, including contribution, sponsorship, donation, etc.
- (2) No public official or relevant person shall accept, request, or promise to receive, any financial or other advantage not exceeding the amount prescribed by Paragraph (1) in connection with his or her duties,

regardless of whether such offer is given in exchange of any favors.

(3) An honorarium for an outside lecture or relevant activity as prescribed in Article 10, or any of the following financial or other advantages shall not constitute a financial or other advantage which public officials or relevant persons are restricted from accepting as prescribed in Paragraph (1) or (2):

1. Financial or other advantages that a public institution offers to public officials or relevant persons who belong to the institution or are on assignment thereto, or a senior public official or relevant person offers to his or her subordinates to either raise their morale or console, encourage, or reward them;
2. Food and drink, congratulatory or condolence money, gifts, or other items that are offered to facilitate performance of duties or for social relationships, rituals, or assistance to festivities and funerals, the value of which is within the limit provided by Presidential Decree;
3. Financial or other advantages that are offered from a legitimate source of right due to a private transaction, such as the payment of debts (excluding donation);
4. Financial or other advantages that relatives (under Article 777 of the Civil Act) of a public official or relevant person offer;
5. Financial or other advantages that employees' mutual aid societies, clubs, alumni associations, ethnic societies, friendship clubs, religious groups, social organizations, etc., related to a public official or relevant person offer to their members in accordance with the rules prescribed by respective organizations, and financial or other advantages that those who have long-term and continuous relationships with a public official or relevant person, such as a member of the same organizations with the public official or relevant person give the public official or relevant person who is in need due to a disease or other kind of disaster;
6. Financial or other advantages that are uniformly provided by an organizer of an official event related to the duties of a public official or relevant person to all participants thereof, including transportation, accommodation, and food and drink;
7. Souvenirs or promotional goods distributed to many and unspecified persons, or awards or prizes that are given by a contest or lottery; and
8. Financial or other advantages that are permitted by any other Acts and subordinate statutes, standards or social norms.

(4) No spouse of a public official or relevant person shall receive, request, or promise to receive a financial or other advantage that public officials or relevant persons are prohibited from accepting (hereinafter referred to as “unacceptable financial or other advantage”) pursuant to Paragraph (1) or (2) in connection with the duties of the public official or relevant person.

- (5) No one shall offer, promise to offer, or express any intention to offer, any unacceptable financial or other advantage to any public official or relevant person, or to his or her spouse.

#### **Article 9 (Reporting and Disposal of Unacceptable Financial or Other Advantages)**

- (1) A public official or relevant person shall immediately report, in writing, any of the following cases, to the head of the relevant agency:

1. A case where a public official or relevant person himself or herself receives an unacceptable financial or other advantage, or a promise or an expression of intention to do so; and
2. A case where a public official or relevant person knows the fact that his or her spouse received an unacceptable financial or other advantage, or a promise or an expression of intention to do so.

- (2) Should a public official or relevant person receive an unacceptable financial or other advantage, a promise or an expression of intention to do so, or should a public official or relevant person be aware that his or her spouse received an unacceptable financial or other advantage, or a promise or an expression of intention to do so, the public official or relevant person shall immediately return, or have his or her spouse return, the advantage to the provider, manifest an intention to reject the advantage, or have his or her spouse manifest such intension. *Provided*, that the public official or relevant person shall deliver, or have his or her spouse deliver, the financial or other advantage received to the head of the relevant agency in any of the following cases:

1. In the event that the financial or other advantage is subject to loss, decay, or deterioration;
2. In the event that the provider of the financial or other advantage is unknown; and
3. Any other situations where it is difficult to return the financial or other advantage to the provider.

- (3) If a head of the relevant agency receives a report as provided in Paragraph (1), or a financial or other advantage is delivered to him or her under the proviso to Paragraph (2), and he or she deems that the advantage is an unacceptable financial or other advantage, the head of the relevant agency shall have the public official or relevant person return or deliver the advantage, or express an intention to reject the advantage. When investigation is deemed necessary, the head of the relevant agency shall immediately notify an investigative agency of the details thereof.

- (4) Should a head of the relevant agency come to know that a public official or relevant person or his or her spouse received an unacceptable financial or other advantage, a promise or an expression of intention to do so, the head of the relevant agency shall immediately inform an investigative agency of the details thereof if investigation is deemed necessary.

- (5) A head of the relevant agency may take such measures as prescribed in each subparagraph of Article 7(4)

and (5) against a public official or relevant person if the head of the relevant agency comes to know that the public official or relevant person or his or her spouse received an unacceptable financial or other advantage, a promise or an expression of intention to do so, or if it is deemed that the performance of the duties of the public official or relevant person may be hindered during the process of reporting, returning, or delivering the unacceptable financial or other advantage or notifying an investigative agency of the case under Paragraphs (1) through (4).

- (6) A public official or relevant person may submit a report or deliver the advantage prescribed in Paragraph (1) or proviso to Paragraph (2) to a supervisory body, the Board of Audit and Inspection, an investigative agency or the Anti-Corruption and Civil Rights Commission.
- (7) Should a head of the relevant agency receive a report under Subparagraph (1)2 from a public official or relevant person and it be deemed that the financial or other advantage which the spouse of the public official or relevant person refuses to return is an unacceptable financial or other advantage, the head of the relevant agency shall require the spouse of the public official or relevant person to return the advantage to the provider.
- (8) Any other matters needed to report and handle unacceptable financial or other advantages other than those prescribed in Paragraphs (1) through (7) shall be prescribed by Presidential Decree.

#### **Article 10 (Restriction of Acceptance of Honoraria for Outside Lectures or Relevant Activities)**

- (1) No public official or relevant person shall accept money in excess of the limits provided under Presidential Decree as an honorarium for a lecture, presentation, or contribution related to his or her duties or requested due to *de facto* influence arising from his or her position or responsibilities (hereinafter referred to as “outside lecture or relevant activity”) at a training course, promotional event, forum, seminar, public hearing, or any other meeting.
- (2) If a public official or relevant person intends to conduct an outside lecture or relevant activity, he or she shall report, in writing, the details of the request for the outside lecture or relevant activity in advance to the head of the relevant agency as prescribed in Presidential Decree. *Provided*, that he or she need not report it if the request for the outside lecture or relevant activity is made by the State or a local government.
- (3) A public official or relevant person may submit a written report on an outside lecture or relevant activity within two (2) days from the day when the outside lecture or relevant activity is finished should it be difficult to make a report on the outside lecture or relevant activity in advance under the provisions of Paragraph (2).
- (4) A head of the relevant agency may restrict an outside lecture or relevant activity that a public official or relevant person reported under Paragraph (2) should it be deemed hindering the public official or relevant person from performing his or her duties uprightly.
- (5) Should a public official or relevant person receive an honorarium exceeding the amount as prescribed by

Paragraph (1), he or she shall report the said fact to the head of the relevant agency in accordance with Presidential Decree and immediately return the excess part to the provider.

#### **Article 11 (Restriction of Public Duty-related Actions 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 of various committees established under the Act on the Establishment and Management of Councils, Commissions and Committees under Administrative Agencies, or any other Acts and subordinate statutes, who is not a public official;
2. A legal person, organization, or an organ or individual belonging thereto that has an authority delegated from a public institution under Acts and subordinate statutes;
3. An individual on assignment from the private sector to a public institution in order to perform public duties; and
4. An individual, legal person or organization that conducts deliberation or assessment in relation to public duties in accordance with Acts and subordinate statutes.

(2) When Articles 5 through 9 apply *mutatis mutandis* to private persons performing public duties under Paragraph (1), the term “public official or relevant person” shall be construed as “private person performing public duties” and the term “head of the relevant agency” shall be construed as “person who falls into any of the following categories”:

1. A member of a committee under Subparagraph (1)1: The head of the public institution under the jurisdiction of which the committee is established;
2. A legal person, organization, or organ or individual belonging thereto under Subparagraph 2 of Paragraph (1): The head of the supervisory body or public institution that delegates or entrusts the authority;
3. An individual under Subparagraph (1)3: The head of the public institution to which the individual is on assignment; and
4. An individual, legal person or organization under Subparagraph (1)4: The head of the public institution for which the said public duties are performed.

#### **Chapter 4: Overall Management of Duties Pertaining to Prevention of Improper Solicitations and Acceptance of Financial or other Advantages**

## **Article 12 (Overall Management of Duties Pertaining to Prevention of Improper Solicitations and Acceptance of Financial or other Advantages)**

The Anti-Corruption and Civil Rights Commission shall take charge of the duties pertaining to the following subparagraphs, under this Act:

1. The improvement of systems for prohibiting improper solicitations and for prohibiting or restricting the acceptance of financial or other advantages, as well as the establishment and implementation of related training and promotion plans;
2. The formulation and dissemination of the criteria for categorizing and determining improper solicitations and unacceptable financial or other advantages, standards for their preventive measures, etc.;
3. The guidance and consultation, as well as receiving and processing of reports on improper solicitations and unacceptable financial or other advantages;
4. The protection of and rewards to reporting persons or cooperators; and
5. The conduct of the fact-finding investigation as well as the collection, management, analysis, etc., of the materials necessary for carrying out the duties described in Subparagraphs 1 through 4.

## **Article 13 (Reporting of Violations)**

(1) Anyone who discovers a violation of this Act has taken place or is taking place, may report it to the following authorities:

1. The public institution where the violation of the Act occurs or its supervisory body;
2. The Board of Audit and Inspection or other investigative authority; or
3. The Anti-Corruption and Civil Rights Commission.

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

1. In the event the report was filed even though the reporting person had known or could know that the information in the report was false;
2. In the event that the reporting person demanded a financial or other advantage or special privilege within the context of the employment relationship in return for the reporting; and
3. In the event that the report was filed for some other improper purpose.

- (3) An individual who intends to submit a report under Paragraph (1) shall submit in writing his or her personal details along with the purport, purpose, and details of the report; sign the written report; and at the same time identify the suspected violator and provide evidence of a violation.

#### **Article 14 (Processing of Reports)**

- (1) An agency prescribed in Subparagraph 13(1)1 or 2 (hereinafter referred to as “investigative agency”) that receives a report in accordance with Paragraph (1) of the same Article, or receives a report transferred from the Anti-Corruption and Civil Rights Commission in accordance with Paragraph (2) of the same Article shall conduct the necessary examination, inspection or investigation of the information in the report.
- (2) Upon receiving a report in accordance with Paragraph 13(1), the Anti-Corruption and Civil Rights Commission shall first verify the details of the report from the reporting person, then transfer the case to an investigative agency as prescribed by Presidential Decree and notify the reporting person of such fact.
- (3) The investigative agency shall notify the reporting person and the Anti-Corruption and Civil Rights Commission of its findings within ten days of the day that the examination, inspection or investigation under Paragraph (1) is completed (applicable only when the case was transferred from the Anti-Corruption and Civil Rights Commission), and then, based on the results of the examination, inspection or investigation, take the necessary follow-up measures, such as filing an indictment, issuing a notification of a violation subject to a fine for negligence, or taking a disciplinary action.
- (4) Upon notification of the results of an examination, inspection or investigation conducted by the investigative agency in accordance with Paragraph (3), the Anti-Corruption and Civil Rights Commission shall immediately inform the reporting person of the results of the examination, inspection, or investigation.
- (5) Upon notification of the results of an examination, inspection, or investigation in accordance with Paragraph (3) or (4), the reporting person may file an appeal with the investigative agency, and the reporting person notified of the results of an examination, inspection or investigation in accordance with Paragraph (4), may also file an appeal with the Anti-Corruption and Civil Rights Commission.
- (6) Should the results of the investigative agency’s examination, inspection or investigation be deemed unsatisfactory, the Anti-Corruption and Civil Rights Commission may request the investigative agency to reexamine the case within thirty days after receiving the results of the examination, inspection, or investigation.
- (7) The investigative agency that receives a reexamination request pursuant to Paragraph (6) shall notify the Anti-Corruption and Civil Rights Commission of the results within seven days after completing the reexamination. Upon receipt of such results, the Anti-Corruption and Civil Rights Commission shall immediately provide the reporting person with a summary of the reexamination.

## **Article 15 (Protection of and Rewards to Reporting Persons or Cooperators)**

- (1) No one may either block any of the following reporting or cooperation (hereinafter referred to as “reporting or cooperation”) or coerce the person who conducted such reporting or cooperation (hereinafter referred to as “reporting person or cooperator”) to withdraw the reporting or cooperation:
1. Reporting prescribed in Paragraphs 7(2) and (6);
  2. Reporting or delivery as prescribed in Paragraph 9(1), the proviso to Paragraph 9(2), and Paragraph 9(6);
  3. Reporting prescribed in Paragraph 13(1); and
  4. Cooperation in support of an examination, inspection, investigation or litigation of a report, or an examination, litigation, etc., related to protective measures by providing statements, testimony, material evidence or other assistance by those other than the one who reports pursuant to Subparagraphs 1 through 3.
- (2) No one may take any disadvantageous measure (“disadvantageous measure” as described in Subparagraph 6 of Article 2 of the Act on the Protection of Public Interest Whistleblowers; hereinafter the same shall apply) against any reporting person or cooperator on grounds of their having reported or cooperated.
- (3) Should a violator of this Act voluntarily report the fact of a violation or the reporting or cooperation by a reporting person or cooperator have resulted in disclosing a violation of this Act committed by himself or herself, then the criminal punishment, fines for negligence, disciplinary actions, or other administrative dispositions for such violation may be mitigated or remitted.
- (4) The provisions of Articles 11 through 13; Paragraphs 14(3) through (5); and Articles 16 through 25 of the Act on the Protection of Public Interest Whistleblowers shall apply *mutatis mutandis* to matters that are related to the protection or other measures for reporting persons or cooperators other than those prescribed in Paragraphs (1) through (3). In this case, the term “public interest whistleblower, etc.” shall be construed as “reporting person or cooperator” and “public interest whistleblowing, etc.” shall be construed as “reporting or cooperation.”
- (5) The Anti-Corruption and Civil Rights Commission may pay the reporting person a cash award should his or her reporting pursuant to Paragraph 13(1) contribute to financially benefiting a public institution or preventing damage thereto, or promoting the public interest.
- (6) The Anti-Corruption and Civil Rights Commission shall pay the reporting person a financial reward should his or her report pursuant to Paragraph 13(1) directly contribute to recovering or increasing the revenue of a public institution or reducing its expenses.

(7) Articles 68 through 71 of the Act on Anti-Corruption and the Establishment and Operation of the Anti-Corruption and Civil Rights Commission shall apply *mutatis mutandis* to requests, payment, etc., of cash awards and rewards pursuant to the provisions of Paragraphs (5) and (6). In such cases, “one who reports a corrupt act” shall be construed as “one who reports pursuant to Paragraph 13(1)” and “report pursuant to this Act” shall be construed as “report pursuant to Paragraph 13(1).”

#### **Article 16 (Measures for Dealing with Unlawful Performance of Duties)**

Should a public official or relevant person be found to have been in violation of the provisions of Article 5, 6, or 8 during or subsequent to the performance of his or her duties, the head of the public institution shall take necessary measures, such as suspension or cancellation of the duties.

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

Should the unlawfulness of the duties of a public official or relevant person performed in violation of the provisions of Article 5, 6, or 8 be verified, the head of the public institution shall recover the money, article or other financial benefit that has already been paid or handed over to the other party of those duties.

#### **Article 18 (Prohibition on Divulgence of Confidential Information)**

No public officials or relevant persons who are performing or have performed duties that fall under any of the following subparagraphs shall divulge any confidential information of which he or she has become aware in the course of performing such duties. *Provided*, that this shall not apply in cases of public disclosure prescribed in Paragraph 7(7).

1. Duties related to the receiving and processing of reports on improper solicitations under Article 7; and
2. Duties related to the receiving of reports on and disposal of unacceptable financial or other advantages under Article 9.

#### **Article 19 (Training and Promotion)**

- (1) The head of each public institution shall provide public officials and relevant persons with regular training on matters concerning the prohibition of improper solicitations and acceptance of financial or other advantages, and shall receive from them signed pledges of compliance.
- (2) The head of a public institution shall guide the public in complying with this Act by actively providing information on the items that are prohibited herein.
- (3) When necessary, the head of a public institution may request the support of the Anti-Corruption and Civil Rights Commission in the implementation of educational and promotional activities prescribed in Paragraphs (1) and (2). In such cases, the Anti-Corruption and Civil Rights Commission shall cooperate

proactively.

#### **Article 20 (Designation of Officers in Charge of Prohibition of Improper Solicitations and Relevant Duties)**

The head of a public institution shall designate among the public officials or relevant persons who belong thereto, an officer in charge of the prohibition of improper solicitations, and each of the following relevant duties:

1. Training and consultation on matters concerning the prohibition of improper solicitations and acceptance of financial or other advantages;
2. Receiving and processing reports and requests pursuant to this Act and examining the details thereof; and
3. Notifying the courts or investigative authorities upon the detection of violations of this Act by the head of the relevant agency.

### **Chapter 5. Disciplinary Action and Punishments**

#### **Article 21 (Disciplinary Actions)**

The head of each relevant agency shall take disciplinary action against each public official or relevant person who violates this Act or Decree pursuant this Act.

#### **Article 22 (Criminal Punishments)**

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

1. A public official or relevant person who violates Paragraph 8(1) (including private persons performing public duties under Article 11). *Provided*, that a public official or relevant person who submits a report as prescribed in Paragraph 9(1), (2), or (6), or who returned, delivered or expressed an intention to reject an unacceptable financial or other advantage shall be excluded;
2. A public official or relevant person (including private persons performing public duties under Article 11) who recognizes that his or her spouse received, requested or promised to receive an unacceptable financial or other advantage under Paragraph 8(1) in violation of Paragraph 8(4) , and fails to report such fact as prescribed in Subparagraph 9(1)2 or Paragraph 9(6). *Provided*, that this shall not apply where the public official or relevant person, or his or her spouse, returned, delivered, or expressed an intention to reject, the unacceptable financial or other advantage in accordance with Paragraph 9(2);

3. Any person who offers, promises to offer, or expresses an intention to offer an unacceptable financial or other advantage as prescribed in Paragraph 8(1) to a public official or relevant person (including private persons performing public duties under Article 11), or his or her spouse in violation of Paragraph 8(5);
4. Any person who tells, discloses or publicizes to any third party personal information concerning a reporting person or cooperator, or other facts from which the identity of the reporting person or cooperator can be inferred in violation of Paragraph 12(1) of the Act on the Protection of Public Interest Whistleblowers, which is applied *mutatis mutandis* under Paragraph 15(4); and
5. A public official or relevant person who divulges confidential information of which he or she has become aware in the course of performing his or her duties in violation of Article 18.

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

1. A public official or relevant person (including private persons performing public duties under Article 11) who performs his or her duties as directed by an improper solicitation in violation of Article 6;
2. Any person who takes a disadvantageous measure falling into Item (a) of Subparagraph 6 of Article 2 in the Act on the Protection of Public Interest Whistleblowers in violation of Paragraph 15(2); and
3. Any person who fails to take a protective measure which was verified under Paragraph 21(2) in the Act on the Protection of Public Interest Whistleblowers, which is applied *mutatis mutandis* as prescribed in Paragraph 15(4), or as a result of an administrative litigation.

(3) Any person who falls under any of the following subparagraphs shall be punished by imprisonment for not more than one year or by a fine not exceeding ten million won:

1. Any person who hinders reporting or cooperation or coerces withdrawal of the reporting or cooperation in violation of Paragraph 15(1); and
2. Any person who takes a disadvantageous measure against a reporting person or cooperator in violation of Paragraph 15(2), which falls into any of Items (b) through (g) of Subparagraph 6 of Article 2 in the Act on the Protection of Public Interest Whistleblowers.

(4) All financial or other advantages prescribed in Subparagraphs (1)1 through 3 shall be confiscated. *Provided*, that where it is impossible to confiscate all or any part of such financial or other advantage, an amount equivalent to the value thereof shall be collected.

### **Article 23 (Fines for Negligence)**

(1) Any of the following persons shall be subject to a fine for negligence not exceeding 30 million won:

1. A public official or relevant person (including private persons performing public duties under Article 11) who makes an improper solicitation to another public official or relevant person (including private persons performing public duties under Article 11) for a third party, in violation of Article 5(1). *Provided*, that no fine for negligence shall be imposed should he or she have been subject to a criminal punishment under the Criminal Act and other Acts, and should he or she have been subject to a criminal punishment after a fine for negligence is imposed, the imposition thereof shall be revoked; and
  2. Any person who refuses to submit relevant material, appear before the Anti-Corruption and Civil Rights Commission, and submit a written statement in violation of Paragraphs 19(2) and (3) in the Act on the Protection of Public Interest Whistleblowers which are applied *mutatis mutandis* pursuant to Paragraph 15(4) (including where the provisions apply *mutatis mutandis* under Paragraph 22(3) of the same Act).
- (2) Any person who makes an improper solicitation to a public official or relevant person (including private persons performing public duties under Article 11) for a third party in violation of Paragraph 5(1) (excluding those who are subject to Paragraph 1(1)) shall be subject to a fine for negligence not exceeding 20 million won. *Provided*, that the fine for negligence shall not be imposed should he or she have been subject to a criminal punishment under the Criminal Act and other Acts, and should he or she have been subject to a criminal punishment after a fine for negligence is imposed, the imposition thereof shall be revoked.
- (3) Any person who makes an improper solicitation through a third party to a public official or relevant person (including private persons performing public duties under Article 11) in violation of Paragraph 5(1) (excluding those subject to Subparagraph (1)1 and Paragraph (2)) shall be subject to a fine for negligence not exceeding ten million won. *Provided*, that the fine for negligence shall not be imposed should he or she have been subject to a criminal punishment under the Criminal Act and other Acts, and should he or she have been subject to a criminal punishment after a fine for negligence is imposed, the imposition thereof shall be revoked.
- (4) A public official or relevant person who fails to submit a report or return a financial or other advantage under Paragraph 10(5) shall be subject to a fine for negligence not exceeding five million won.
- (5) Any of the following persons shall be subject to a fine for negligence of two to five times the value of the financial or other advantage related to the violation. *Provided*, that the fine for negligence shall not be imposed should he or she have been subject to a criminal punishment under Subparagraphs 22(1)1 through 3, or the Criminal Act and other Acts (including confiscation or collection of equivalent value), and should he or she have been subject to a criminal punishment after a fine for negligence is imposed, the imposition thereof shall be revoked:
1. A public official or relevant person who violates Paragraph 8(2) (including private persons performing public duties under Article 11). *Provided*, that this shall not apply when the public official or relevant

person submitted a report as prescribed in Paragraph 9(1), (2), or (6), or returned, delivered, or expressed an intention to reject an unacceptable financial or other advantage;

2. A public official or relevant person (including private persons performing public duties under Article 11) who recognizes that his or her spouse received, requested or promised to receive an unacceptable financial or other advantage under Paragraph 8(2) in violation of Paragraph 8(4), and fails to report such fact as prescribed in Subparagraph 9(1)2 or Paragraph 9(6). *Provided*, that this shall not apply when the public official or relevant person, or his or her spouse, returned, delivered, or expressed an intention to reject the unacceptable financial or other advantage in accordance with Paragraph 9(2); and
3. Any person who offers, promises to offer, or expresses an intention to offer, an unacceptable financial or other advantage as prescribed in Paragraph 8(2) to a public official or relevant person (including private persons performing public duties under Article 11), or his or her spouse in violation of Paragraph 8(5).

(6) Notwithstanding the provisions of Paragraphs (1) through (5), no fine for negligence shall be imposed should a disciplinary committee have resolved to impose disciplinary additional charges under the State Public Officials Act, Local Public Officials Act or any other Act or subordinate statute; and no resolution to impose disciplinary additional charges shall be passed should a fine for negligence have been imposed.

(7) A head of the relevant agency shall notify a competent court, which shall proceed to a trial on a fine for negligence pursuant to the Non-Contentious Case Procedure Act, of the violation committed by a person subject to a fine for negligence imposed under Paragraphs (1) through (5).

#### **Article 24 (Responsibility of Legal Persons, etc.)**

Where a representative of a legal person or organization, or an agent, employee or other servant of a legal person, organization or individual commits a violation under Subparagraph 3 of Paragraph (1) of Article 22 (excluding a case where the provider of a financial or other advantage is a public official or relevant person (including private persons performing public duties to whom Article 8 applies *mutatis mutandis* under Article 11)), Paragraph 23(2) or (3), or Subparagraph 23(5)3 (excluding a case where the provider of a financial or other advantage is a public official or relevant person (including private persons performing public duties to whom Article 8 applies *mutatis mutandis* under Article 11)), not only shall the violator be punished, but the legal person, organization or individual also shall be punished by a fine, or fine for negligence, prescribed by the corresponding provision. *Provided*, that this shall not apply where the legal person, organization or individual has not been negligent in giving due attention and supervision concerning the relevant duties so as 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 of the Reporting of Unacceptable Financial or Other Advantages)

Paragraph 9(1) shall apply when a case that falls into any of the subparagraphs in the same paragraph occurs after the enforcement of this Act.

Article 3 (Applicability of the Restriction of Acceptance of Honoraria for Outside Lectures or Relevant Activities)

Paragraph 10(1) shall apply to an outside lecture or relevant activity that is held after this Act enters into force.