

# ACT ON THE ESTABLISHMENT AND OPERATION OF TEACHERS' UNIONS

Act No. 5727, Jan. 29, 1999  
Amended by Act No. 6400, Jan. 29, 2001  
Act No. 6456, Mar. 28, 2001  
Act No. 7354, Jan. 27, 2005  
Act No. 8157, Dec. 30, 2006  
Act No. 8852, Feb. 29, 2008  
Act No. 10132, Mar. 17, 2010  
Act No. 10339, Jun. 4, 2010  
Act No. 11690, Mar. 23, 2013  
Act No. 13936, Feb. 3, 2016  
Act No. 17326, May 26, 2020  
Act No. 17430, Jun. 9, 2020  
Act No. 17861, Jan. 5, 2021

## Article 1 (Purpose)

The purpose of this Act is to prescribe matters concerning establishing teachers' unions pursuant to the proviso to Article 5 (1) of the Trade Union and Labor Relations Adjustment Act and prescribe special exceptions to teachers in applying the Trade Union and Labor Relations Adjustment Act, notwithstanding Article 66 (1) of the State Public Officials Act and Article 55 of the Private School Act. <Amended on Jan. 5, 2021>

## Article 2 (Definition)

The term "teacher" in this Act means any of the following persons: <Amended on Jun. 9, 2020; Jan. 5, 2021>

1. Teachers prescribed in Article 20 (1) of the Early Childhood Education Act;
2. Teachers prescribed in Article 19 (1) of the Elementary and Secondary Education Act;
3. Teachers prescribed in Article 14 (2) and (4) of the Higher Education Act (excluding instructors).

## Article 3 (Prohibition of Political Activities)

No teachers' union (hereinafter referred to as "union") shall engage in any political activities. <Amended on May 26, 2020>

#### **Article 4 (Establishment of Unions)**

(1) Teachers falling under subparagraph 1 or 2 of Article 2 may establish unions only either at the level of the Special Metropolitan City/a Metropolitan City/a Special Self-Governing City/a Do/the Special Self-Governing Province (hereinafter referred to as "City/ Do") or at a nationwide level. <Amended on Jun. 9, 2020>

(2) Teachers falling under subparagraph 3 of Article 2 may establish unions at an individual school, City/Do, or nationwide level. <Newly Inserted on Jun. 9, 2010>

(3) Any person who intends to establish a union shall submit a report thereon to the Minister of Employment and Labor. <Amended on Jun. 4, 2010; Jun. 9, 2020>

#### **Article 4-2 (Membership Eligibility)**

The following persons are eligible to join a union:

1. A teacher;
2. A person who was appointed, and has worked, as a teacher and is prescribed by the bylaws of a union.

#### **Article 5 (Status of Full-Time Union Officers)**

(1) Teachers may exclusively engage in the affairs of unions if permitted by their appointing authorities.

(2) A person who exclusively engages in the affairs of a union with the permission pursuant to paragraph (1) (hereinafter referred to as "full-time officer") shall be deemed temporarily laid off under Article 44 of the Educational Officials Act and Article 59 of the Private School Act during the period of exclusive engagement.

(3) A full-time officer shall not be remunerated in any kind by the employer during the period of exclusive engagement in the affairs of a union.

(4) A full-time officer shall not suffer any disadvantage with respect to promotion or other position-related treatment, on the ground of being a full-time officer.

#### **Article 6 (Authority to Conduct Bargaining and Conclude Agreement, and so on)**

(1) The representative of a union shall have authority to bargain with any of the following persons to conclude a collective agreement for enhancing economic and social status of the trade union or its members, such as wages, working conditions and welfare: <Amended on Mar. 23, 2013; Jun. 9, 2020>

1. In the case of a representative of a union under Article 4 (1): The Minister of Education, a superintendent of education of a City/Do, or the founder or manager of a private school. Founders or managers of private schools shall join forces at a nationwide or City/Do level for bargaining;

2. In the case of a representative of a union under Article 4 (2): The Minister of Education, a Special Metropolitan City Mayor, a Metropolitan City Mayor, a Special Self-Governing City Mayor, a Do Governor, and a Special Self-Governing Province Governor (hereinafter referred to as "Mayor/Do Governor"); the head of a national or public school; or the founder or manager of a private school.

(2) In the case of paragraph (1), the bargaining members of a union shall consist of the representative and members of the relevant union.

(3) Deleted. <Jun. 9, 2020>

(4) Where the representative of a union intends to conduct collective bargaining with the Minister of Education, a Special Metropolitan City Mayor, a Metropolitan City Mayor, a Special Self-Governing City Mayor, a Do Governor, and a Special Self-Governing Province Governor, the head of a national or public school, or the founder or manager of a private school under paragraph (1), the representative shall make a request for bargaining, in writing, to a person with authority over the matters subject to bargaining. <Newly Inserted on Jun. 9, 2020>

(5) Upon receipt of a request for bargaining from a union under paragraph (4), the Minister of Education, a Special Metropolitan City Mayor, a Metropolitan City Mayor, a Special Self-Governing City Mayor, a Do Governor, and a Special Self-Governing Province Governor, the head of a national or public school, or the founder or manager of a private school shall make the fact of receiving such request to the public and ensure participation of the relevant union in the bargaining process. <Newly Inserted on Jun. 9, 2020>

(6) Where there are at least two unions that make a request for bargaining under paragraphs (4) and (5), the Minister of Education, a Special Metropolitan City Mayor, a Metropolitan City Mayor, a Special Self-Governing City Mayor, a Do Governor, and a Special Self-Governing Province Governor, the head of a national or public school, or the founder or manager of a private school may request the relevant union to establish a single bargaining channel. Once a single bargaining channel is established, they shall respond to bargaining. <Newly Inserted on Jun. 9, 2020>

(7) Where a collective agreement is entered into with a union under paragraphs (1) through (6), the Minister of Education, a Special Metropolitan City Mayor, a Metropolitan City Mayor, a Special Self-Governing City Mayor, a Do Governor, and a Special Self-Governing Province Governor, the head of a national or public school, or the founder or manager of a private school may refuse to bargain with a union which did not participate in the conclusion of such collective agreement while the agreement remains in force. <Newly Inserted on Jun. 9, 2020>

(8) In conducting collective bargaining or concluding a collective agreement under paragraph (1), the parties thereto shall gather consensus from the general public and students' parents, remain faithful in the process of bargaining and concluding a collective agreement; and shall not abuse their authority. <Amended on Jun. 9, 2020>

(5) Matters regarding the procedures for collective bargaining and other matters under paragraphs (1), (2), and (4) through (8) shall be prescribed by Presidential Decree. <Amended on Jun. 9, 2020>

### **Article 7 (Effect of Collective Agreement)**

(1) Where a collective agreement concluded pursuant to Article 6 (1) provides for such other matters as may be prescribed by Acts and subordinate statutes, municipal ordinances, or based on budget and as may be provided for by being delegated pursuant to Acts and subordinate statutes or municipal ordinances, such matters shall not have effect as a collective agreement.

(2) The Minister of Education, a Mayor/Do Governor, the superintendent of education of a City/Do, the head of a national or public school, or the founder or manager of a private school shall faithfully endeavor to implement the matters which have no effect as a collective agreement pursuant to paragraph (1).

*<Amended on Mar. 23, 2013; Jun. 9, 2020>*

### **Article 8 (Prohibition of Industrial Actions)**

A union and its members shall not conduct strikes, sabotage or any other industrial actions of interfering with the normal operation of business. *<Amended on May 26, 2020>*

### **Article 9 (Application for Mediation of Labor Disputes)**

(1) Where collective bargaining under Article 6 falls apart, any one party or both parties may file an application for mediation of a labor dispute with the National Labor Relations Commission under Article 2 of the Labor Relations Commission Act (hereinafter referred to as "National Labor Relations Commission"). *<Amended on Jan. 5, 2021>*

(2) Where one of the parties or both parties file an application for mediation under paragraph (1), the National Labor Relations Commission shall commence mediation without delay and both parties concerned shall conscientiously participate in the mediation process.

(3) Mediation shall be completed within 30 days from the date of receipt of the application under paragraph (1).

### **Article 10 (Commencement of Arbitration)**

In any of the following cases, the National Labor Relations Commission shall arbitrate the case: *<Amended on Jun. 4, 2010>*

1. Where both parties concerned jointly request an arbitration after collective bargaining under Article 6 falls apart;
2. Where one of the parties refuses to accept the mediation proposal presented by the National Labor Relations Commission;
3. Where the chairperson of the National Labor Relations Commission decides to arbitrate the case ex officio or at the request of the Minister of Employment and Labor.

### **Article 11 (Composition of Committee for Teachers' Labor Relations Adjustment)**

(1) There shall be established the Committee for Teachers' Labor Relations Adjustment (hereinafter referred to as "Committee") in the National Labor Relations Commission to mediate and arbitrate teachers' labor disputes.

(2) The Committee shall consist of three members representing public interests in charge of mediation, who are nominated by the chairperson of the National Labor Relations Commission: Provided, That, if the parties concerned reach an agreement to recommend any person other than a member representing public interests in charge of mediation of the National Labor Relations Commission, the Chairperson of the National Labor Relations Commission shall nominate such person.

(3) The chairperson of the Committee shall be elected from among the members of the Committee.

### **Article 12 (Finalization of Arbitration Award, etc.)**

(1) Where the parties concerned deem that an arbitration award rendered by the National Labor Relations Commission is inconsistent with any Act or subordinate statute or ultra vires, they may file an administrative suit with the chairperson of the National Labor Relations Commission within fifteen days from the date of receipt of the arbitration award, notwithstanding the provisions of Article 20 of the Administrative Litigation Act.

(2) If an administrative suit is not filed within the period referred to in paragraph (1), the arbitration award shall become final and decisive.

(3) When the arbitration award becomes final and decisive pursuant to paragraph (2), the parties concerned shall comply therewith.

(4) The effect of the arbitration award rendered by the National Labor Relations Commission, shall not be suspended by any administrative suit filed pursuant to paragraph (1).

(5) The content of the arbitration award which becomes final and decisive pursuant to paragraph (2) shall have the same effect as that of a collective agreement.

### **Article 13 (Relations with Application for Review of Teachers' Petition)**

Where a teacher or a union files an application for remedy with the Labor Relations Commission pursuant to Article 82 (1) of the Trade Union and Labor Relations Adjustment Act on the ground that such teacher has been dismissed or has suffered any other disadvantage due to any act under subparagraph 1 or 5 of Article 81 of said Act, he/she or it need not file an application for petition review with the Appeal Commission for Teachers, notwithstanding Article 9 of the Special Act on the Improvement of Teachers' Status and the Protection of Their Educational Activities. <Amended on Feb. 3, 2016>

### **Article 14 (Relationship to Other Statutes)**

(1) Except as otherwise expressly provided for in paragraph (2), the Trade Union and Labor Relations Adjustment Act shall apply to those matters not prescribed by this Act with respect to the unions and labor

relationship adjustment to be applied to teachers (including persons falling under subparagraph 2 of Article 4-2). In such cases, “due to collective bargaining or industrial action” in Article 3 of the Trade Union and Labor Relations Adjustment Act shall be construed as “due to collective bargaining”; “collective bargaining or industrial action” in the main sentence of Article 4 of said Act as “collective bargaining”; “in cases of an associated trade union or a unit trade union extending over at least two of Special Metropolitan Cities, Metropolitan Cities, Special Self-Governing Cities, Dos, and Special Self-Governing Provinces, to the Minister of Employment and Labor, in cases of a unit trade union extending over at least two Sis/Guns/Gus (referring to an autonomous Gu), to the Special Metropolitan City Mayor, Metropolitan City Mayors or Do Governors, and in case of the other trade unions, to a Special Self-Governing City Mayor, a Special Self-Governing Province Governor, or the head of a Si/Gun/Gu (referring to the head of an autonomous Gu; hereafter the same shall apply in Article 12 (1))” in the main sentence of Article 10 (1) of said Act as “to the Minister of Employment and Labor”; “the Minister of Employment and Labor, the Special Metropolitan City Mayor, a Metropolitan City Mayor, a Special Self-Governing City Mayor, a Do Governor, a Special Self-Governing Province Governor, or the head of a Si/Gun/Gu (hereinafter referred to as ”administrative agency“))” in Article 12 (1) of said Act as “the Minister of Employment and Labor”; “the mediation committee or the single mediator” in Articles 58, 60 (1) through (4) and 61 (3) of said Act as “the Committee for Teachers’ Labor Relations Adjustment”; “the chairperson of the mediation committee or the single mediator” in Article 59 of said Act as “the chairperson of the Committee for Teachers’ Labor Relations Adjustment”; “all of the members of the mediation committee or the single mediator” in Article 61 (1) of said Act as “all of the members of the Committee for Teachers’ Labor Relations Adjustment”; “the arbitration committee” in Articles 66 (1), 67 and 68 (2) of said Act as “the Committee for Teachers’ Labor Relations Adjustment”; “the representative of a trade union or a person authorized by the trade union” in subparagraph 3 of Article 81 of said Act as “the representative of a union”; “subparagraph 3 of Article 85 (including cases applied mutatis mutandis in subparagraph 4 of Article 29-4)” in subparagraph 2 of Article 89 of said Act as “subparagraph 3 of Article 85”; “subparagraph 2 of Article 44, subparagraph 4 of Article 69, Article 77 or Article 81” in Article 90 of said Act as “Article 81”; “Articles 88 through 93” in Article 94 of said Act as “subparagraph 2 of Article 89 and Articles 90, 92 and 93”; “worker” in said Act as “teacher”; “employer” in said Act as “the Minister of Education, a Mayor/Do Governor, a superintendent of education of a City/Do, the head of a national or public school, or the founder or manager of a private school, or a person in charge of the matters regarding teachers, acting on behalf of the Minister of Education, a Mayor/Do Governor, a superintendent of education of a City/Do, the head of a national or public school, the founder or manager of a private school”; and “administrative agency” in said Act as “the Minister of Employment and Labor.” <Amended on Jun. 4, 2010; Mar. 23, 2013; Jun. 9, 2020; Jan. 5, 2021>

(2) Subparagraph 4 (d) of Article 2, Articles 24, 24-2, 29 (2) through (4), 29-2 through 29-5, 36 through 39, 41, 42, 42-2 through 42-6, 43 through 46, 51 through 57, 60 (5), 62 through 65, 66 (2), 69 through 73, 76 through 80, the proviso to subparagraph 2 of Article 81 (1), Article 88, subparagraph 1 of Article 89,

and Articles 91 and 96 (1) 3 of the Trade Union and Labor Relations Adjustment Act shall not apply to the unions under this Act. <Amended on Jan. 5, 2021>

### **Article 15 (Penalty Provisions)**

(1) A person who conducts an industrial action in violation of Article 8 shall be punished by imprisonment with labor for not more than five years or by a fine not exceeding 50 million won.

(2) A person who fails to comply with an arbitration award in violation of Article 12 (3) shall be punished by imprisonment with labor for not more than two years or by a fine not exceeding 20 million won.

ADDENDA <Act No. 5727, Jan. 29, 1999>

(1) (Enforcement Date) This Act shall enter into force on July 1, 1999.

(2) (Period of Validity) The provisions of Article 6 (3) shall be valid until December 31, 2009. <Amended by Act No. 6456, Mar. 28, 2001; Act No. 8157, Dec. 30, 2006>

ADDENDA <Act No. 6400, Jan. 29, 2001>

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

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

**Articles 2 through 4 Omitted.**

ADDENDA <Act No. 6456, Mar. 28, 2001>

(1) (Enforcement Date) This Act enter into force on the date of its promulgation. (Proviso Omitted.)

(2) Omitted.

ADDENDA <Act No. 7354, Jan. 27, 2005>

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

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

**Articles 2 through 4 Omitted.**

ADDENDUM <Act No. 8157, Dec. 30, 2006>

This Act shall enter into force on January 1, 2007.

ADDENDA <Act No. 8852, Feb. 29, 2008>

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation: Provided, That, among the Acts amended pursuant to Article 6 of the Addenda, the amendments to the Acts promulgated before this Act enters into force, but the enforcement dates of which have yet to arrive, shall enter into force on the dates on which the respective Acts take effect.

**Articles 2 through 7 Omitted.**

ADDENDUM <Act No. 10132, Mar. 17, 2010>

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

ADDENDA <Act No. 10339, Jun. 4, 2010>

**Article 1 (Enforcement Date)**

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

**Articles 2 through 5 Omitted.**

ADDENDA <Act No. 11690, Mar. 23, 2013>

**Article 1 (Enforcement Date)**

(1) This Act shall enter into force on the date of its promulgation.

(2) Omitted.

**Articles 2 through 7 Omitted.**

ADDENDA <Act No. 13936, Feb. 3, 2016>

**Article 1 (Enforcement Date)**

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

**Articles 2 through 4 Omitted.**

ADDENDUM <Act No. 17326, May 26, 2020>

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



ADDENDUM <Act No. 17430, Jun. 9, 2020>

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

ADDENDUM <Act No. 17861, Jan. 5, 2021>

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

Last updated : 2021-10-06

