

# **THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED**

## **BY REPUBLIC OF KOREA**

### **ARTICLE 6 UNCAC**

#### **PREVENTIVE ANTI-CORRUPTION BODY OR BODIES**

##### **REPUBLIC OF KOREA (FIFTH MEETING)**

###### **I - Information requested from States parties in relation to mandates of anticorruption body or bodies in respect of prevention (art.6)**

###### **A. Overview of the ACRC**

The Anti-Corruption and Civil Rights Commission of Korea is the national anti-corruption body, which is the control tower of anti-corruption policy for the central and local governments, and public organizations.

###### **• History**

In response to the international anti-corruption movement in the mid-1990's including the OECD Anti-Bribery Convention and the 1997 Asian Financial Crisis, a social movement started in Korea to advance the overall social system including government practices. Civil society and the academia actively participated in the movement, in particular, to enact an anti-corruption act and to establish an independent anti-corruption body, leading to a lively discussion at the National Assembly of Korea. As a result, the "Anti-Corruption Act" was established in 2001 to effectively control corrupt practices, and the Korea Independent Commission Against Corruption (KICAC) was launched in the following year.

In line with this, the Korean government put the eradication of corruption and the enhancement of the national integrity level on the top government agenda and started working on systematizing its anti-corruption initiatives. These efforts were followed by an effective combination of preventive measures and reactive measures to address corruption, including government-wide anti-corruption policies, improvement of corruption-causing laws and systems, integrity assessment for public organizations, anti-corruption training, code of conduct for public officials on the prevention front, and handling of corruption reports, protection and reward for whistleblowers on the reaction front.

To lay the groundwork for a more effective governance, the ACRC was established in 2008 by integrating three functions of Ombudsman, administrative appeals, and corruption prevention. By integrating diverse channels to protect people's rights and interests, people can enjoy improved accessibility and efficiency of the one-stop complaint-filing channel. And given that corruption, complaints and administrative appeals cases are usually caused by the illegal or unfair performance of duties by public officials, the integration of the three functions has brought a huge synergistic effect between protecting people's rights and preventing corruption.

- Organization

The ACRC consists of the Chairperson (Ministerial level), three Vice Chairpersons (Vice Ministerial level), three Standing Commissioners and eight Non-Standing Commissioners.<sup>i</sup> The Chairperson and Vice Chairpersons are appointed by the President on the recommendation of the Prime Minister. Standing Commissioners are appointed by the President on the recommendation of the Chairperson, and Non-Standing Commissioners are appointed or commissioned by the President. The Commission is guaranteed independence in performing its functions, and no member including the Chairperson shall be dismissed or discommissioned against his/her will.<sup>ii</sup> For the fair decision-making by the ACRC, three non-standing commissioners are appointed or commissioned by the National Assembly, and other three on the recommendation of the Chief Justice of the Supreme Court of Korea among the eight non-standing commissioners.

- Participation in UNCAC meetings and implementation review process

In pursuant to Article 6 (3) of the Convention, the ACRC was designated and notified as Korea's national preventive anti-corruption body in April 2008, and has been deploying a delegation to all Conference of State Parties (CoSP) and Implementation Review Group (IRG) meetings that have been held so far. In particular, at the 3rd CoSP (Nov. 2009, Qatar), and the 5th CoSP (Nov. 2013, Panama), the ACRC Chairman attended the conference and gave a speech at the General Discussion session.

In the meantime, the ACRC submitted a report on the implementation status regarding whistleblower protection system and other measures that the ACRC is conducting in the third year of the first review cycle. In March 2013, a delegation consisting of anti-corruption experts from Bulgaria, India and the UNODC visited the ACRC and other related agencies in Korea for a country review and the Commission responded to the delegation with sincerity. In the Country Review Report, the ACRC was chosen as the "successful and best practice". As Korea's national preventive anti-corruption institution, the ACRC is expected to take the lead in the second review cycle which will monitor the implementation status of Chapter II (Preventive Measures) of the Convention.

## **REPUBLIC OF KOREA (SECOND MEETING)**

### **ACT ON ANTI-CORRUPTION AND THE ESTABLISHMENT AND OPERATION OF THE ANTI-CORRUPTION & CIVIL RIGHTS COMMISSION**

Act No. 8878, Feb. 29, 2008  
Amended by Act No. 9342, Jan 7, 2009  
Act No. 9402, Feb. 3, 2009

## **CHAPTER I GENERAL PROVISIONS**

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

The purpose of this Act is to protect people's basic rights and interests, secure administrative validity, and create a transparent public service and society by handling people's complaints and grievances, improving unreasonable administrative systems, and preventing and efficiently regulating corruption through the establishment of the Anti-Corruption & Civil Rights Commission.

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

The terms used in this Act are defined as follows: <Amended by Act No. 9402, Feb. 3, 2009>

1. The term "public organizations" means the institutions and organizations that fall into any of the following categories:
  - (a) The administrative agencies of various levels under the Government Organization Act and the executive organs and councils of local governments under the Local Autonomy Act;

- (b) The Superintendents of the Offices of Education, the district offices of education, and the boards of education under the Local Education Autonomy Act;
- (c) The National Assembly under the National Assembly Act, the courts of various levels under the Court Organization Act, the Constitutional Court under the Constitutional Court Act, the election commissions of various levels under the National Election Commission Act, and the

Board of Audit and Inspection under the Board of Audit and Inspection Act; and

- (d) Organizations related to public service under Article 3 (1) 12 of the Public Service Ethics Act.
2. The term "administrative agency, etc." means any central administrative agency, local government, corporation or organization that has the authority of an administrative agency or to which such authority is delegated or entrusted, under the article 4 of the Act on the Operation of Public Institution, or member of such a corporation or organization
  3. The term "public organization employees" means the persons who fall into any of the following categories:
    - (a) The persons under the State Public Officials Act and the Local Public Officials Act, and those who are recognized by other Acts as public officials in terms of qualifications, appointments, education and training, services, remunerations, guarantee of position and so on; and
    - (b) The heads of organizations related to public service provided for in subparagraph 1 (d) and the employees of such organizations.
  4. The term "act of corruption" means the act of wrongdoing that falls into any of the following categories:
    - (a) The act of a public organization employee to seek illegitimate gains for himself/herself or for any third party by abusing his/her position or authority, or violating Acts and subordinate statutes in connection with his/her duties;
    - (b) The act of causing financial damage to a public organization in violation of Acts and subordinate statutes, when it is in the process of executing its budget, or acquiring, managing or disposing of its property, or entering into and executing a contract to which it is a party; and
    - (c) The act of forcing, recommending, suggesting or encouraging someone to engage in or conceal the acts provided for by the above subparagraphs (a) and (b).
  5. The term "complaint" means any complaint on any illegal, unjustifiable or passive action of an administrative agency, etc. (including an actual act

and omission) or unreasonable administrative system which violates a citizen's right or causes inconvenience or burden to a citizen (including complaints and grievances of soldiers on service and those who perform their mandatory service related to military);

6. The term "petitioner" means any individual, corporation or organization filing a complaint with the Anti-Corruption & Civil Rights Commission or a Local Ombudsman
7. The term "non-governmental organization" means any non-profit and non-governmental organization registered with the competent Minister or a Mayor/Do governor under Article 4 of the Assistance for Non-profit and Non-governmental Organizations Act and
8. The term "Local Ombudsman" means any entity established under Article 32 to deal with complaints against local governments and institutions belonging thereto (including corporations or organizations to which authority of such local governments or institutions is delegated or entrusted under Acts or subordinate statutes, or their members; hereinafter the same shall apply) and to improve related systems

### **Article 3 (Duties of Public Organizations)**

- (1) A public organization shall take the responsibility to prevent corruption for the purposes of raising the awareness of ethics in society.
- (2) In case a public organization deems it necessary to eliminate legal, institutional or administrative inconsistencies for the prevention of corruption, or to address other related issues, then it shall promptly improve or rectify the foregoing.
- (3) By using such reasonable means as educational and promotional activities, a public organization shall make strenuous efforts to raise the awareness of its employees and citizens on the prevention of corruption.
- (4) A public organization shall make determined efforts to promote international cooperation and exchanges for the prevention of corruption.

### **Article 4 (Duties of Political Parties)**

- (1) A political party registered under the Political Parties Act and its

members shall endeavor to create a culture of clean and transparent politics. (2) A political party and its members shall establish a transparent election culture and carry out its transparent operation and ensure the transparent collection and use of political funds.

#### **Article 5 (Duties of Private Enterprises)**

A private enterprise shall establish sound trading order and business ethics. It shall also take the necessary steps to prevent any case of corruption.

#### **Article 6 (Duties of Citizens)**

Every citizen shall fully cooperate with public organizations in implementing their anti-corruption policies and programs.

#### **Article 7 (Obligation of Public Organization Employees to Maintain Integrity)**

Every public organization employee shall honor Acts and subordinate statutes, perform his/her duties impartially and hospitably, and refrain from engaging in corruption and damaging his/her dignity.

#### **Article 7-2 (Prohibition of public organization employee from exploiting secrets learned while performing his/ her duties)**

Public organization employee shall not acquire any goods or property interest by exploiting secrets that s/he has learned while performing his/her duties, or shall not have a third party acquire such goods or such property interest through the exploitation of such secrets. <Newly Inserted by Act No. 9342, Jan. 7, 2009>

#### **Article 8 (Code of Conduct for Public Organization Employees)**

(1) The code of conduct that public organization employees shall observe under Article 7 shall be prescribed by Presidential Decrees, National Assembly regulations, Supreme Court regulations, Constitutional Court regulations, National Election Commission regulations or public organization rules.

(2) The Code of Conduct for Public Organization Employees referred to in

paragraph (1) shall prescribe each of the following categories:

1. Matters on the prohibition of public organization employees from and restrictions on receiving entertainment, money and other pecuniary advantages from any person related to his/her duties;
2. Matters on the prohibition of public organization employees from and restrictions on using his/her public position to influence personnel management, seek financial benefits, use connections amongst highly positioned individuals, or solicit favors;
3. Matters on, for example, transparent personnel management, which public organization employees shall observe in order to create a sound climate in officialdom; and Other matters that shall be addressed to prevent corruption and maintain the integrity and dignity of public office.

(3) If a public organization employee violates the Code of Conduct for Public Organization Employees referred to in paragraph (1), disciplinary action may be taken against him/her.

(4) The type, procedure and effectuation of disciplinary action referred to in paragraph (3) shall be governed by the related Acts and subordinate statutes, or the by-laws of a public organization to which the violator belongs.

#### **Article 9 (Guarantee of Livelihoods of Public Organization Employees)**

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

#### **Article 10 (Requesting Rights and Interests Protection Institution, etc. to Provide Assistance)**

The Anti-Corruption & Civil Rights Commission or any Local Ombudsman may, if deemed necessary to perform duties, request administrative agencies, such as the National Human Rights Commission of Korea, corporations or organizations, the purpose of which is to protect the rights and interests of

citizens or to improve Acts and subordinate statutes or systems in order to promote social justice and public interest under Acts, to provide necessary assistance.

## **CHAPTER II ANTI-CORRUPTION & CIVIL RIGHTS COMMISSION**

### **Article 11 (Establishment of the Anti-Corruption & Civil Rights**

**Commission)** The Anti-Corruption & Civil Rights Commission (hereinafter referred to as the 'Commission') is established under the Prime Minister's Office in order to handle people's complaints and grievances, improve unreasonable administrative systems, and prevent and efficiently regulate corruption.

### **Article 12 (Functions)**

The Commission shall perform the following functions:

1. Formulating and implementing policies to protect people's rights, remedy people's rights and interests, and combat corruption;
2. Investigating and handling complaints and grievances of the people, recommending related rectification or submitting opinions related to those complaints;
3. If the improvement of relevant administrative systems and of the operation thereof is deemed necessary in the course of handling complaints, recommendation for, or submission of opinions on, such improvement;
4. Investigating actual conditions and evaluating the results of complaints and improvement of administrative systems handled by the Commission
5. Formulating anti-corruption policies and making corruption preventing recommendations to assist public organizations to strengthen their system and policies, and conducting fact-finding investigations on public organizations for that purpose;
6. Surveying the actual state and evaluating the progress of policy steps, which public organizations have taken to prevent corruption;
7. Making and implementing plans for education and promotion to fight corruption and protect people's rights and interests

8. Cooperating with and supporting individuals, corporations and organizations related to the activities of the Commission, including helping non-profit private organizations with their anti-corruption activities;
9. Promoting international cooperation related to the Commission
10. Providing information on corruption report and counseling and receiving reports;
11. Protecting and rewarding those who have reported suspected corruption;
12. Examining corruption-causing factors in Acts and subordinate statutes;
13. Collecting, managing and analyzing data and materials regarding the prevention of corruption and protection of rights and interests
14. Ensuring the implementation of the Code of Conduct for Public Organization Employees, receiving and processing reports of violation whereof, and protecting those who submitted such reports;
15. Providing guidance and counseling related to the filing of complaints, and checking and notifying how submitted complaints are handled;
16. Operating integrated on-line citizen participation portals, and establishing and operating the government call-center handling civil applications;
17. Cooperating, assisting and educating with regard to the activities of each Local Ombudsman;
18. Arbitrating and settling matters related to conflicts of a majority of people, and investigating and handling complaints of businesses to resolve their difficulties;
19. Handling matters with regard to the operation of the Administrative Appeals Commission under the Prime Minister's Office according to the Administrative Appeals Act;
20. Addressing matters within the jurisdiction of the Commission provided for by other Acts and subordinate statutes and
21. Addressing matters that the Prime Minister put on the agenda of the Commission to enhance people's rights and interests.

### **Article 13 (Composition of the Commission)**

- (1) The Commission shall be composed of 15 members (including three vice

chairpersons and three standing commissioners), including one Chairperson. In this case, the three vice chairpersons assist the Chairperson by taking charge of complaints and grievances, anti-corruption, and the Prime Minister Administrative Appeals Commission. However, the Administrative Appeals Act applies to the composition of the Prime Minister Administrative Appeals Commission.

(2) The Chairperson, vice chairpersons and other commissioners of the Commission shall be appointed or commissioned from among the following persons who are deemed capable of fairly and independently performing duties with respect to complaints and anti-corruption:

1. Persons whose term of service as associate professor (or corresponding position thereto) or higher either at college or at an authorized research institute is eight years or more;
2. Persons whose term of service as judge, public prosecutor or attorney-at-law is ten years or more;
3. Persons who were or are in office as Grade III public official or higher;
4. Persons whose term of service as certified architect, certified tax accountant, certified public accountant, professional engineer or patent attorney is ten years or more;
5. Persons whose term of service as member of any Local Ombudsman under Article 33 (1) is four years or more; and
6. Other persons of high social reputation who have knowledge and experience on administration and who are recommended by (a) non-governmental organization(s).

(3) The Chairperson and vice chairperson are appointed by the President on the recommendation of the Prime Minister. The standing commissioner is appointed by the President on the recommendation of the Chairperson. The non-standing commissioner is appointed or commissioned by the President. Among non-standing commissioners, two are appointed or commissioned on the recommendation of the National Assembly and the Chief Justice of the Supreme Court, respectively.

(4) The Chairperson and vice chairperson serve political service and standing commissioners are regarded as public officials serving special

service who belong to high-ranking public officials.

(5) If the positions of the commissioners become vacant, new commissioners shall be appointed or commissioned without delay. In this case, the term of the newly appointed or commissioned commissioners restarts.

#### **Article 14 (Chairperson)**

(1) The chairperson shall represent the Commission.

(2) When the chairperson is unable to perform his/her duty for unavoidable reasons, a vice chairperson, who is designated by the chairperson, shall act on his/her behalf.

#### **Article 15 (Disqualification of Members)**

(1) A person who falls under any of the following subparagraphs shall not be qualified as board member:

1. A person who is not a citizen of the Republic of Korea;
2. A person who falls under any subparagraph of Article 33 of the State Public Officials Act;
3. A person who is affiliated with a political party as a member; and
4. A person who registers himself/herself as candidate in an election held in accordance with the Act on the Election of Public Officials and the Prevention of Election Malpractices.

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

#### **Article 16 (Independence and Guarantee of Position)**

(1) The Commission shall independently perform the work of which it is authorized.

(2) The term in office for the chairperson and the other board members shall be three years, which may be renewed once.

(3) No member shall be dismissed or decommissioned against his/her will with the exception of any of the following subparagraphs:

1. Where s/he falls under any subparagraph of Article 15 (1);
2. Where s/he has much difficulty in performing his/her duties due to

mental or physical difficulties and

3. If s/he violates the prohibition against holding more than one office under Article 17.

(4) In case a member falls under the subparagraph 2 of paragraph (3), the President or the Prime Minister shall dismiss or decommission him/her on the chairperson's recommendation after a resolution thereof has been passed with the consent of not less than two thirds of the total members.

#### **Article 17 (Prohibition against Holding More Than One Office)**

A member shall not, during his/her term of office, serve concurrently as:

1. a member of the National Assembly or any local council;
2. an individual or an officer or employee of a corporation or organization having a special interest provided for by Presidential Decree in any administrative agency, etc.

#### **Article 18 (Exclusion and Evasion of and Challenge to Member)**

(1) Any member shall, if s/he falls within any of the following subparagraphs, be excluded from participation in deliberation and decision of the given committee:

1. If s/he, or any person who is or was his/her spouse, is associated to the party involved in the matter in question or shares any interest with the party as joint holder of any rights or joint burdener of any duties;
2. If s/he has or had a relationship by blood or marriage to the petitioner of the given matter
3. If s/he makes a witness, appraisal, legal advice or damage assessment concerning the given matter
4. If s/he was engaged in the investigation, inspection or audit concerning the given matter before being appointed or commissioned as the commissioner or
5. If s/he participates or participated in the given matter as an agent of the petitioner thereof.

(2) Any interest party may make a request to challenge a member if any special grounds for which it would be difficult to expect impartial

deliberation or decision-making from that member exists.

(3) If any member falls within paragraph (1) or (2), s/he may voluntarily refrain from deliberation and decision on the given matter.

#### **Article 19 (Resolution of Board)**

(1) A resolution shall be passed at a board meeting, which is held with the attendance of a majority of its registered members and with the concurrent vote of a majority of those present. But, concerning Article 20, Paragraph 1 Subparagraph 4, a resolution shall be passed with the vote of a majority of registered members.

(2) Members who are not engaged in deliberation and resolution according to the Article 18 are excluded in counting the number of registered members based on the Article 19, Paragraph 1.

(3) Other matters deemed necessary for operating the Commission is designated based on the Presidential decree.

#### **Article 20 (Small Committees)**

(1) In relation to handling complaints, the Commission may establish committees (herein after referred to as the "small committees") composed of three members to deliberate and decide on matters that do not fall under any of the following subparagraphs:

1. Matters provided for by Presidential Decree, including those of interest to many persons, among those whose rectification is recommended under Article 46;
2. Matters with respect to which the system improvement is recommended under Article 47;
3. Matters concerning a decision on a request for audit and inspection under Article 51;
4. Matters with respect to which the previous decision practices of the Commission are required to be changed;
5. Matters that the Commission is to deal with directly by resolution of a small committee; and
6. Other matters that the Chairperson recognizes to be dealt with by the

Commission.

(2) All the members of a small committee shall constitute a quorum, and all decisions thereof shall be taken by all of those present.

(3) Other matters necessary for the duties and operation of a small committee shall be provided for by Presidential Decree.

#### **Article 21 (Subcommittees)**

For efficient performance, the Commission may have a subcommittee by area.

#### **Article 22 (Outside Expert)**

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

(2) The chairperson shall appoint or designate expert members under paragraph (1).

#### **Article 23 (Establishment of Secretariat)**

(1) The Commission shall have a secretariat to deal with its administrative affairs.

(2) There shall be one Secretary General appointed by the Chairperson, who concurrently serves as the vice chairperson. S/he deals with affairs of the Secretariat, and commands and supervises employees belonging thereto under the command of the Chairperson.

(3) Except as provided for in this Act, matters necessary for the organization and operation of the Secretariat shall be provided for by Presidential Decree.

#### **Article 24 (Advisory Organ)**

(1) The Commission may establish an advisory organ which renders advisory opinions on matters necessary to perform duties.

(2) Matters necessary for the composition and operation of an advisory organ established under paragraph (1) shall be provided for by Presidential

Decree.

**Article 25 (Secondment of Public Officials, etc.)**

(1) The Commission may, if deemed necessary to perform its duties, request State organs, local governments, organizations stipulated in the Article 4 of the Act on the Operation of Public Institutions, or relevant corporations or organizations to second their public officials or employees to the Commission.

(2) The heads of those State organs, local governments, organizations stipulated in the Article 4 of the Act on the Operation of Public Institutions, or relevant corporations or organizations which have seconded public officials or employees belonging thereto to the Commission under paragraph (1) shall take favorable measures for them in terms of allocation, promotion, treatment, etc.

**Article 26 (Report, Publication, etc. of Status of Operation)**

(1) The Commission shall annually report the status of the operation thereof to the President and the National Assembly and publish such status updates.

(2) In addition to a report under paragraph (1), the Commission may, if deemed necessary, make any other special report to the President and the National Assembly.

**Article 27 (Recommendation for Institutional Improvements)**

(1) The Commission, if need be, may recommend that the head of a public organization improve institutions to better prevent corruption.

(2) The head of a public organization that has been recommended to improve institutions under paragraph (1) shall reflect such a recommendation in its institutional improvement measures and inform the Commission about the result of the measures taken according to the recommendation, and the Commission can examine the status of such implementation.

(3) In the case that the head of a public organization that has been

recommended to make institutional improvements under paragraph (1) finds it difficult to take measures as recommended by the Commission, s/he shall make a request for the Commission's review of the recommendation. On request, the Commission shall do so.

#### **Article 28 (Review of Corruption-causing Factors in Laws)**

(1) The Commission may review corruption-causing factors in Acts, Presidential Decrees, Prime Ministerial decrees and Ordinances of Ministries and in other directives, regulations, announcements, notices, ordinances and rules in reference thereto, and may recommend that the head of the public organization concerned take actions to remove them.

(2) Matters regarding the procedure and methods of the review undertaken under paragraph (1) shall be prescribed by the Presidential Decree.

#### **Article 29 (Hearing Opinions)**

(1) In performing the functions provided for in Article 12, subparagraphs 5 to 14, the Commission, if necessary, may take measures which fall under any of the following subparagraphs:

1. Requesting that a public organization give an explanation or submit materials, documents, etc. and assess the current status of affairs in the organization; and
2. Requesting that an interested person, a reference person, or a public organization employee involved attend to state their opinions.

(2) The Commission shall be prohibited from taking measures provided for in paragraph (1) with respect to the matters which fall into any of the following categories:

1. Matters on the confidential information of the State;
2. Matters on the appropriateness of an investigation, trial and execution of sentence including a security measure, a security surveillance measure, a protective detention measure, a probation measure, a protective internment measure, a custodial treatment measure and a community service order, or matters of which the Board of Audit and Inspection is undertaking inspection;

3. Matters on an administrative appeal or litigation, a ruling of the Constitutional Court, a constitutional petition, a review by the Board of Audit and Inspection or other objection or remedy procedures that are in process under other Acts;
  4. Matters on mediation of interests among parties concerned—including settlement, mediation, conciliation, and arbitration—which is being in process under Acts and subordinate statutes; and
  5. Matters made definite by a judgment, decision, ruling, settlement, mediation, arbitration, etc. or other matters on which the Audit and Inspection Commission has passed a resolution in accordance with the Board of Audit and Inspection Act.
- (3) The measures stated in each subparagraph of paragraph (1) above shall be limited to what the Commission needs to perform its functions in each subparagraph of Article 12 and attention shall be paid not to hamper the performance of duties by any public organization.
- (4) The head of a public organization shall sincerely comply with requests for the submission of materials and cooperate in assessing the current status of affairs under paragraph **(1)**, and if s/he finds it difficult to do so, s/he shall explain why.
- (5) The head of a public organization may get its employees or relevant experts to be present at the Commission to state their opinions or to submit relevant materials in connection with institutional improvements, etc.

### **Article 30 (Prohibition of Divulging Confidential Information)**

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

### **Article 31 (Legal Fiction as Public Officials in the Application of Penal Provisions)**

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

### **CHAPTER III LOCAL OMBUDSMAN**

#### **Article 32 (Establishment of Local Ombudsman)**

- (1) There may be, in each local government, a Local Ombudsman to deal with complaints against each such local government and institutions belonging thereto and to improve administrative systems.
- (2) Any Local Ombudsman shall perform the following duties:
  1. Investigation and handling of complaints against the local government concerned and institutions belonging thereto;
  2. Recommendation for rectification or submission of opinions related to complaints;
  3. If the improvement of relevant administrative systems and of the operation thereof is deemed necessary in the course of handling complaints, recommendation for, or submission of opinions on, such improvement;
  4. Actual condition investigation and evaluation of the results of complaints handled by such Local Ombudsman and the improvement of administrative systems;
  5. Guidance and counseling related to the filing of complaints and assistance for handling thereof;
  6. Education and publicity related to the activities of such Local Ombudsman;
  7. Exchange and cooperation with international organizations, foreign rights and interests protection institutions, etc. related to the activities of such Local Ombudsman;
  8. Cooperation with and assistance to individuals, corporations or organizations related to the activities of such Local Ombudsman; and
  9. Other matters which are entrusted to such Local Ombudsman under

other Acts and subordinate statutes.

### **Article 33 (Qualifications, etc. of Members of Local Ombudsman)**

(1) The members of each Local Ombudsman shall be commissioned by the head of the local government concerned with the consent of the local council concerned, from among the following persons who are deemed capable of fairly and independently performing duties with respect to the handling of complaints:

1. Persons who are or were associate professors (or corresponding position thereto) or higher either at college or at an authorized research institute;
2. Persons who are or were judges, public prosecutors or attorneys-at-law;
3. Persons whose are or were Grade IV public officials or higher;
4. Persons whose term of service as certified architect, certified tax accountant, certified public accountant, professional engineer or patent attorney is five years or more;
5. Persons of high social reputation who have knowledge and experience on administration and who are recommended by non-governmental organizations.

(2) Any member of a Local Ombudsman shall hold office for a term of four years and shall not be commissioned consecutively for a further term.

(3) The head of the local government concerned shall, if the term of office of any member of a Local Ombudsman expires, or a vacancy occurs, commission his/her successor within 30 days after such expiration or occurrence.

(4) The term of office of any member of a Local Ombudsman who is commissioned to fill a vacancy occurring prior to the expiration of the term of office of his/her predecessor shall newly commence.

### **Article 34 (Provision of Expenses)**

The head of a local government in which there is a Local Ombudsman shall provide such expenses as are necessary for the Local Ombudsman to perform duties referred to in Article 32 (2).

### **Article 35 (Applicable Provisions related to the Commission)**

The provision of the Article 15, Article 16 (3), Article 17, Article 18, Article 25, and Article 31 with respect to the Local Ombudsman shall apply in this case.

**Article 36 (Executive Office)**

- (1) The head of the local government concerned shall establish an executive office to assist a Local Ombudsman to perform his/her duties.
- (2) There shall be the chief and other necessary employees in the executive office.

**Article 37 (Report, Publication, etc. of Status of Operation)**

- (1) Any Local Ombudsman shall annually report the status of the operation thereof to the head of the local government concerned as well as to the local council concerned and publish such status.
- (2) In addition to a report under paragraph (1), any Local Ombudsman may, if deemed necessary, make any other special report to the head of the local government concerned as well as to the local council concerned.

**Article 38 (Matters concerning Organization and Operation of Local**

**Ombudsman)** Except as provided for in this Act, matters necessary for the organization and operation of any Local Ombudsman shall be provided for by ordinance of the local government concerned.

**CHAPTER/V HANDLING OF COMPLAINT**

**Article 39 (Filing and Receipt of Complaint)**

- (1) Any person (including an alien who resides in the Republic of Korea) may file a complaint with the Commission or a Local Ombudsman (hereinafter referred to as the "Ombudsman"). In this case, any petitioner who files a complaint with one Ombudsman may do so with another Ombudsman.
- (2) Any person who intends to file a complaint with the Ombudsman shall

do so by a document in which the following information is inputted (including an electronic document; hereinafter the same shall apply):

*Provided*, That when there is any special reason to the contrary, he/she may do so orally:

1. His/her name and domicile (in the case of a corporation or organization, its name, the place of its main office, and the name of its representative);
2. Facts supporting, and reasons for, such filing, and the points at issue; and
3. Other matters provided for by Presidential Decree, including the name of the administrative agency concerned.

(3) Any petitioner may, except for a legal agent, appoint any of the following persons as agents. In this case, the qualifications of agents shall be certified in writing:

1. A spouse, lineal ascendant or descendant, brother or sister of such petitioner;
2. An officer or employee of a legal person which is such petitioner;
3. An attorney-at-law;
4. A person who may file a complaint as an agent under other Acts; and
5. A person who obtains the permission of the Ombudsman.

(4) If a complaint is filed, the Ombudsman shall neither withhold, nor refuse receipt thereof and shall not unjustifiably return any document relating to the complaint which has already been received, except as otherwise provided in other Acts and subordinate statutes: *Provided*, That when the Ombudsman withholds, refuses or returns a document relating to the complaint, the Ombudsman shall, without delay, notify the relevant petitioner of the reasons for doing so.

#### **Article 40 (Referral, etc. of Complaint)**

(1) The Ombudsman may refer to the administrative agency, etc. concerned any complaint whose handling thereby is regarded as appropriate, out of complaints received. In this case, its head shall, if requested, notify the Ombudsman of the results of such handling.

(2) The Ombudsman may handle any complaint whose handling by the Ombudsman is regarded as appropriate by the head of the administrative agency, etc. concerned and which that head refers to the Ombudsman. In this case, such complaint shall be deemed to have been received by the Ombudsman at the time when it is referred to the Ombudsman.

(3) If the Ombudsman refers any complaint to the administrative agency, etc. concerned under paragraph (1), the Ombudsman shall, without delay, notify the relevant petitioner of the reasons for doing so. In this case, the Ombudsman may, when deemed necessary, render the said petitioner advisory opinions on the procedures and measures for the remedy of his/her rights.

(4) If any petitioner files a complaint both with the Commission and with a Local Ombudsman under Article 39 (1), each of them shall, without delay, notify the other. In this case, they shall cooperate with each other in handling the complaint.

#### **Article 41 (Investigation of Complaint)**

(1) Upon receipt of a complaint, the Ombudsman shall, without delay, investigate the complaint: *Provided* that such investigation may not be conducted in the following cases;

1. In cases in which the complaint falls within any subparagraph of Article 43 (1);
2. In cases in which the contents of the complaint are deemed false or ill-founded; or
3. In other cases in which the Ombudsman deems it inappropriate that the Ombudsman should initiate such investigation, including any case not falling within a complaint.

(2) The Ombudsman may, even after initiating an investigation, interrupt or suspend it in any case in which it is deemed that there is no necessity to continue the investigation, including a case falling within any subparagraph of paragraph (1).

(3) If the Ombudsman decides to cease an investigation on a complaint, or interrupts or suspends such investigation, the Ombudsman shall, without delay, notify the relevant petitioner of the reasons for doing so.

## **Article 42 (Methods of Investigation)**

(1) In conducting an investigation under Article 41, the Ombudsman may, if deemed necessary, take any of the following measures:

1. To request the administrative agency, etc. concerned to give an explanation or submit relevant materials and documents;
2. To request an employee of the administrative agency, etc. concerned, the petitioner, person of interest or any other reference person to present him/herself and submit his/her opinions;
3. To inspect any place or facility deemed relevant to matters subject to investigation on an on-site basis; and
4. To commission any other entity to make an appraisal.

(2) If any employee of the Ombudsman makes an on-site inspection or hears opinions under paragraph (1), s/he shall carry an identification verifying his/her authority and present it to the relevant persons.

(3) The head of the administrative agency, etc. concerned shall comply with a request or inspection made by the Ombudsman under paragraph (1) and cooperate therewithal in a bona fide manner.

## **Article 43 (Rejection, etc. of Complaint)**

(1) The Ombudsman may reject a complaint falling within any of the following subparagraphs or transfer it to any other relevant entity:

1. A complaint requiring any high political decision or related to any state or official secret;
2. A complaint related to the National Assembly, a court, the Constitutional Court, an election commission, the Board of Audit and Inspection, or a local council;
3. A complaint related to criminal investigation and execution of a sentence whose handling by the competent entity is regarded as appropriate or in connection with which the Board of Audit and Inspection initiates an audit and inspection;
4. A complaint with respect to which the administrative appeal,

administrative litigation, trial at the Constitutional Court, review by the Board of Audit and Inspection, or any other objection or remedy procedure under any other Act is in progress;

5. A complaint with respect to which any procedure aiming to balance the interests between the parties, i.e., settlement, mediation, conciliation or arbitration, is in progress under Acts and subordinate statutes;
  6. A complaint that is related to the relationship of rights and duties established by judgment, decision, ruling, settlement, mediation, arbitration, etc. or in connection with which the Board of Audit and Inspection requires any action;
  7. A complaint related to the relationship of rights and duties between private individuals or to an individual's privacy; or
  8. A complaint related to personnel administration for employees of any administrative agency, etc.
- (2) If the Ombudsman rejects a complaint or transfers it to any other relevant entity under paragraph (1), the Ombudsman shall, without delay, notify the relevant petitioner of the specified reasons for doing so. In this case, the Ombudsman may, when deemed necessary, render the said petitioner advisory opinions on the procedures and measures for the remedy of his/her rights.
- (3) If it is found that a complaint on which the investigation is based upon falls under any subparagraph of paragraph (1), the head of the administrative agency, etc. concerned shall, without delay, notify the Ombudsman.

#### **Article 44 (Recommendation for Compromise)**

The Ombudsman may propose to the parties involved a remedy s/he deems necessary for the impartial resolution of any complaint whose investigation is in progress or completed, whereupon recommending a compromise to those who are involved.

#### **Article 45 (Conciliation)**

- (1) In order to ensure the rapid and impartial resolution of any complaint

related to many persons or having far-reaching social effects, the Ombudsman may, upon request or ex officio, initiate the conciliation procedure if deemed necessary.

(2) The conciliation shall be completed at the time when, after both parties enter the compromised matters in the document of conciliation, they sign and seal it and the Ombudsman, in turn, identifies no flaws in that document.

(3) The conciliation under paragraph (2) of this Article shall have the same effect as a settlement under the Civil Act.

#### **Article 46 (Recommendation for Rectification and Submission of Opinions)**

(1) If there is a sufficient cause to identify any relevant action, etc. as illegal and unjustifiable as a result of the investigation of a complaint, the Ombudsman may make recommendation(s) to the head of the administrative agency, etc. concerned on an appropriate method of rectification.

(2) The Ombudsman may submit to the head of the administrative agency, etc. concerned opinions on matters on which the relevant petitioner's case is deemed well-founded as a result of the investigation of a complaint.

#### **Article 47 (Recommendation for, and Submission of Opinions on, System Improvement)**

If the improvement of any relevant Act and subordinate statute, system, policy, etc. is deemed necessary in the course of investigating or handling a complaint, the Ombudsman may recommend or submit to the head of the administrative agency, etc. concerned the suggested improvement(s) or opinion(s) within reason.

#### **Article 48 (Provision of Opportunity to Submit Opinions)**

(1) Before making a recommendation to the head of the administrative agency, etc. concerned on the rectification or system improvement under Article 46 or 47, the Ombudsman shall, in advance, provide the said administrative agency, etc. and the relevant petitioner or an interested person with an opportunity to submit their opinions.

(2) Any employee of the administrative agency, etc. concerned, petitioner or interested person may attend a meeting held by the Ombudsman to state his/her opinions or to submit necessary materials.

#### **Article 49 (Notice of Decision)**

The Ombudsman shall, without delay, notify the relevant petitioner and the head of the administrative agency, etc. concerned of a decision on a complaint.

#### **Article 50 (Notification, etc. of Results of Handling)**

(1) The head of the administrative agency, etc. concerned receiving a recommendation or opinion under Article 46 or 47 shall comply therewith and notify the Ombudsman of the results of the handling those recommendation(s) or opinion(s) within thirty days after such receipt.

(2) If the head of the administrative agency, etc. concerned receiving a recommendation under paragraph (1) does not implement the recommendation, s/he shall, in writing, notify the Ombudsman of the reasons for not doing so.

(3) If the Ombudsman receives notice under paragraph (1) or (2), the Ombudsman shall, without delay, notify the relevant petitioner of the interaction thereof.

#### **Article 51 (Request for Audit and Inspection)**

If, in the course of investigating or handling any complaint, it is found that any employee of the administrative agency, etc. concerned deals with relevant affairs illegally and unjustifiably by intention or in gross negligence, the Commission and the relevant Local Ombudsman may respectively request the Board of Audit and Inspection and the local government concerned to conduct an audit and inspection.

#### **Article 52 (Confirmation and Review of Implementation of Recommendations, etc.)**

The Ombudsman may confirm and review the compliance with recommendations made or opinions submitted under Articles 46 and 47.

### **Article 53 (Publication)**

The Ombudsman may publish the following items provided that publication is not restricted under any other Act or will not violate an individual's privacy:

1. Content of recommendations made or opinions submitted under Articles 46 and 47;
2. Results of handling under Article 50 (1); and
3. Reasons for not implementing recommendations under Article 50 (2).

### **Article 54 (Interrelations between the Commission and Each Local Ombudsman and between Local Ombudsmen)**

(1) The Commission or each Local Ombudsman shall independently perform duties and shall comply with request for mutual consultation or assistance unless there is any justifiable reason to decline such requests.

(2) The Commission shall actively support any of the Local Ombudsman's activities.

## **CHAPTER V REPORTING OF ACTS OF CORRUPTION AND PROTECTION OF WHISTLE-BLOWERS, ETC.**

### **Article 55 (Reporting Act of Corruption)**

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

**Article 56 (Public Organization Employee's Obligation to Report Corruption)** In the case that a public organization employee learns that an act of corruption has been committed or is forced or proposed to commit corruption by another public organization employee, s/he shall report it immediately to any investigative agency, the Board of Audit and Inspection or the Commission.

### **Article 57 (Obligation to Report in Good Faith)**

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

### **Article 58 (Method of Reporting)**

Any person who intends to report an act of corruption shall do so in a written statement containing his/her personal information, intention, purport and reasons for reporting. And when making disclosures, information on who engaged in corruption and evidence attesting to the wrongdoing shall be included.

### **Article 59 (Handling of Reports)**

(1) The Commission may, upon receipt of a report, confirm the following details from the informant, complainant or whistle-blower:

1. Matters necessary to specify the contents of the report such as the name, address and occupation of the informant, complainant or whistle-blower and the details and purport of his/her report; and
2. Matters concerning whether the contents of the report fall under any subparagraph of Article 29 (2).

(2) The Commission may ask any informant, complainant or whistle-blower to submit necessary materials within the scope of ascertaining the truth of the matters specified in paragraph (1).

(3) If need arises for investigating a corruption case reported, the Commission shall refer it to the Board of Audit and Inspection, an investigative agency or an agency in charge of supervising the relevant public organization. In case such a supervisory agency is nonexistent, it refers to the public organization in itself. (hereinafter, the "investigative organization"). If the report contains a State secret, it shall be handled according to the Presidential Decree.

(4) If a person suspected of committing corruption on which the Commission has received a report is a senior public official who falls under each of the following subparagraphs and if details on his/her suspected act of corruption are needed for an investigation for criminal

punishment and an institution of public prosecution, the Commission shall file an accusation with the prosecution against him/her in its name:

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

(5) The prosecution, upon receipt of an accusation filed under paragraph (4), shall notify the Commission of the results of its investigation. It shall also do so when a case which the Commission has reported is already under investigation or relates to another case under investigation.

(6) The Commission shall handle a corruption case reported within 60 days of when it receives the case; provided that if there are justifiable grounds such as the need for supplementation, then the period of time may be extended for no longer than 30 days.

### **Article 60 (Handling of Investigation Results)**

(1) The investigative organization shall complete its inspection, investigation or examination of a case within 60 days of when it receives the case; provided that if there are justifiable grounds, then the period of time may be extended and the investigative organization shall inform the Commission why and how long it will extend the deadline.

(2) The investigative organization to which a report is referred under Article 59 shall notify the Commission of the findings of inspection, investigation, or examination thereof within 10 days of when it concludes such an inspection, investigation or examination. Upon receiving the findings, the Commission shall relay a summary of the findings to the person making the disclosure.

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

(4) When the inspection, investigation or examination conducted by the investigative organization is deemed inadequate, the Commission may ask the organization to launch again the inspection, investigation or examination by presenting reasonable grounds, for example, submitting new evidence, within 30 days of when the Commission is notified of the findings thereof. Any informant, complainant or whistle-blower who is informed of these findings under the latter part of the above paragraph (2) may raise objections to the findings.

(5) The investigative organization that is requested to launch again the inspection, investigation or examination shall notify the Commission of the results of such further inspection, investigation or examination within 7 days of completion. In that case, the Commission, upon receiving the findings of such an inspection, investigation or examination, shall relay a summary of the findings to the person making the disclosure.

#### **Article 61 (Filing Adjudication)**

(1) If a person suspected of committing an act of corruption under Article 59 (4) and (5) falls under Articles 129 through 133 and 355 through 357 of the Criminal Act, including the case of aggravated punishment under other Acts and the Commission files an accusation with the prosecution against him/her, or if the same case as the one against which the accusation is filed is already under investigation or is related to another case under investigation, and if the public prosecutor concerned delivers a notice to the Commission that s/he does not institute a public prosecution against either of the two cases, then the Commission may file an application for an adjudication on the right or wrong thereof with the High Court corresponding to the High Public Prosecutor's Office to which the public prosecutor belongs.

(2) Articles 260 (2) to (4), 261, 262, 262 (4), 264 and 264 (2) of the Criminal Procedure Act shall apply *mutatis mutandis* for the adjudication referred to in paragraph (1).

(3) With respect to the application for the adjudication referred to in

paragraph (1), if the public prosecutor has not instituted a public prosecution by ten days prior to the date on which the statute of limitation for prosecution thereof expires, it shall be deemed that the public prosecutor has served a notice on the Commission that s/he does not institute such public prosecution at that time; and with respect to an accusation which the Commission filed with the prosecution under Article 59 (4), if the public prosecutor has not instituted such public prosecution by three months after the date on which the Commission filed such accusation, it shall be deemed that the public prosecutor has served such a notice on the Commission at the time that the three months lapsed, respectively.

### **Article 62 (Guarantee of Public Position)**

(1) Any person shall not be subjected to disadvantage or discrimination in terms of his/her working conditions or public position, including disciplinary action taken by a group to which s/he belongs, on the ground that under this Act s/he reported, made a written statement, or submitted materials on a suspected act of corruption.

(2) Any person, who has suffered or is expected to suffer disadvantage or discrimination as a result of reporting corruption, may request the Commission to take measures to guarantee his/her public position and other necessary measures, for example, by invalidating discriminatory action against him/her, transferring him/her elsewhere, or suspending disciplinary action against him/her.

(3) Any person, who has been put at financial or administrative disadvantage, such as the cancellation of permit or license and the revocation of a contract, may request the Commission take necessary steps, for example, to ensure the temporary implementation of the permit, license, or contract, for the purpose of restoring the situation back to his/her original state, or correcting the disadvantages.

(4) If there is a request under paragraph (2) or (3), the Commission shall launch an inquiry.

(5) The Commission may launch an inquiry in accordance with paragraph (4) in a manner that falls under any of the following:

1. A request to the requester or reference persons for presenting themselves before the Commission to state their opinions or for submitting their written statements;
  2. A request to the requester, reference persons, or related agencies for submitting materials that are deemed relevant to the investigation; or
  3. An inquiry about facts or information, which are deemed relevant to the investigation of the requester, reference persons or related agencies.
- (6) Any person who is subject to the request, inquiry, or measures under each subparagraph of paragraph (5) shall sincerely comply with them.
- (7) When a person made a request for the guarantee of his/her public position and investigation found that it is reasonable, the Commission may ask the head of an organization, group or enterprise to which the requester belongs or related agency to take proper measures. In this case, the head of the body shall comply with requests from the Commission, unless there are justifiable reasons to act contrarily.
- (8) If a public organization employee reports corrupt acts and duly asks the Commission to take proper personnel management measures such as transfer and secondment, then it may request the Minister of Public Administration and Security or the head of the appropriate public organization to take necessary steps. In such a case, the Minister or the head of the relevant public organization shall give prioritized consideration to such request(s) and inform the Commission of the results.
- (9) The Commission may ask a relevant disciplinary officer to take action against a person who has violated those rights outlined in paragraph (1).

### **Article 63 (Presumption of Disadvantages)**

If a public organization employee reports an act of corruption according to this Act and, pursuant to paragraph (2) or (3) of Article 62, requests the Commission to restore the situation back to his/her original state or litigates for that purpose, then s/he is presumed to have suffered disadvantages for his/her act of reporting corruption.

### **Article 64 (Personal Protection)**

(1) Any employee of the Commission or the investigative agency to which matters of corruption are referred under Article 59 (3) shall be prohibited from disclosing or suggesting the identity of the informant, complainant or whistle-blower without his/her consent.

(2) If an informant, complainant or whistle-blower feels that s/he or his/her family, relatives or cohabitant should be protected from being subjected to pressure or retaliation, or the fear of such consequences, s/he may request the Commission to take protective steps. In such a case, the Commission may ask the Commissioner General of the Korean National Policy Agency, the chief of a local police agency or the chief of the competent police station to take relevant protective steps.

(3) The Commissioner General of the Korean National Policy Agency, the chief of a local police agency, or the chief of the competent police station shall, upon receiving a request as described in paragraph (2), take steps to protect the party concerned under the conditions as prescribed by the Presidential Decree.

(4) If a person suffers disadvantages or discrimination for his/her report of corruption or if there are reasonable grounds to assume that s/he may experience such disadvantages or discrimination, Article 7 (Omission of Personal Information), Article 9 (Inspection of Identification Management Card) or Article 12 (Consultation of Legal Proceedings) of the Protecting Those Who Report Specific Crimes Act shall apply *mutatis mutandis* to the investigation and the following criminal procedures in connection with the reported act of corruption.

(5) Any person shall not disclose, report, or let others know the personal information of an informant, complainant or whistle-blower, or what enables others to assume that s/he reported corruption, secure in the knowledge that s/he is being protected pursuant to the above paragraphs (3) and (4).

#### **Article 65 (Protection of Cooperators)**

The provisions of Articles 62, 64 and 66 shall apply *mutatis mutandis* to the guarantee of public position and physical protection of any person, other than a whistle-blower, who has cooperated in the inspection, investigation or

examination procedure by stating his/her opinion and submitting materials with regard to corruption matters reported under this Act.

#### **Article 66 (Mitigation of Culpability)**

- (1) If a person reports corrupt acts according to this Act, which results in the detection of a crime committed by himself/herself, punishment for the crime may be mitigated or remitted.
- (2) The provisions of paragraph (1) above shall apply *mutatis mutandis* to any disciplinary measure taken by a public organization.
- (3) If a person reports corrupt acts according to this Act, s/he shall be deemed not to violate the obligation of confidentiality in the performance of his/her duty, even though other laws, pacts, employment rules, etc. stipulate otherwise.

#### **Article 67 (Applicable Provisions)**

The stipulations of Articles 62 to 66 shall apply *mutatis mutandis* to each of the following cases:

1. where a person reported acts of corruption to the public organization to which s/he belongs;
2. where a person reported acts of corruption to the public organization supervising the organization, group or enterprise to which s/he belongs; and
3. where a person reported violations of the Code of Conduct for Public Organization Employees.

#### **Article 68 (Financial Reward and Compensation)**

- (1) If a person reports an act of corruption under this Act to bring financial benefits or prevent financial damage to a public organization, or serve the public interest, then the Commission may recommend that s/he receive an award under the Awards and Decorations Act and/or provide a financial reward prescribed by the Presidential Decree.
- (2) If a person reports an act of corruption under this Act to contribute directly to increasing or recovering revenues of a public organization or

preventing it from bearing economic costs to be otherwise incurred, or if legal relations in that matter are established, then s/he may apply to the Commission for payment of compensation. In that case, the compensation shall include expenses spent to restore his/her situation to a state prior to suffering discriminatory action.

(3) If the Commission receives an application for the payment of compensation as provided in paragraph (2), it shall pay the applicant such compensation after going through a deliberation and resolution of the Reward Deliberation Board set up in accordance with Article 69 on the conditions as prescribed by the Presidential Decree; provided, however, that a public official reports an act of corruption in connection with his/her duties, such compensation may be reduced or not be paid.

(4) The application for the payment of compensation under paragraph (2) above shall be filed within 2 years of the date on which it is known that legal relations regarding the recovery or increase of revenues or the reduction of costs of the public organization are established.

#### **Article 69 (Reward Deliberation Board)**

(1) The Commission shall establish the Reward Deliberation Board to deliberate on and resolve matters concerning the payment of financial reward or compensation pursuant to paragraphs (1) and (2) of Article 68.

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

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

(3) Necessary matters with regard to the composition and operation of the Reward Deliberation Board shall be prescribed by the Presidential Decree.

#### **Article 70 (Determination of Compensation Payment)**

(1) The Commission shall, upon receipt of an application for compensation filed under Article 68, determine whether to pay such compensation and the amount of the compensation, if any, to be paid, within 90 days of the date of the application therefore, unless there exists any reason to the contrary.

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

### **Article 71 (Relation to Other Acts and Subordinate Statutes)**

(1) Any person who is to be paid compensation under Article 68 shall not be prohibited from applying for compensation in accordance with other Acts and subordinate statutes.

(2) If any person, who is to receive compensation, received reward under this Act or received compensation for the same reason according to the provisions of other Acts and subordinate statutes, and if the amount of such reward or compensation obtained is the same as or exceeds the amount of compensation to be received under this Act, any compensation under this Act shall not be given to him/her. If the amount of such reward or compensation is less than the amount of compensation to be received under this Act, the compensation under this Act shall be the difference between the two amounts.

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

## **CHAPTER V CITIZENS' REQUEST FOR INSPECTION**

### **Article 72 (Right to Request Inspection)**

(1) In the event that a public organization seriously harms public interest while executing administrative affairs due to a violation of Acts and subordinate statutes or its involvement in an act of corruption, any citizen aged 19 or over may request an inspection from the Board of Audit and Inspection by presenting a petition signed by no fewer than a certain

number of citizens as prescribed by the Presidential Decree; provided, however, that with respect to the administrative affairs executed by the National Assembly, courts, the Constitutional Court, Election Commissions, or the Board of Audit and Inspection, such request shall be made to the Speaker of the National Assembly, the Chief Justice of the Supreme Court, the President of the Constitutional Court, the Chairperson of the National Election Commission, or the Chairperson of the Board of Audit and Inspection (hereinafter, the "head of a relevant public organization").  
<Amended by Act No. 9342, Jan. 7, 2009>

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

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

**(3)** Notwithstanding the provisions of paragraph (1) above, any inspection request pertaining to the execution of the administrative affairs that belong to the rights of local governments and their heads shall be governed by Article 16 of the Local Autonomy Act.

### **Article 73 (Method of Requesting Inspection)**

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

inspection under the conditions as prescribed by the Presidential Decree.

#### **Article 74 (Decision on Conducting Inspection)**

(1) With respect to an inspection request made in accordance with the main sentence of Article 72 (1), the National Audit and Inspection Request Deliberation Commission prescribed by the Regulations of the Board of Audit and Inspection shall determine whether to conduct such inspection.

(2) If the head of a relevant public organization receives an inspection request under the proviso of Article 72 (1), s/he shall determine, within 30 days of the receipt, whether to conduct such inspection in accordance with the National Assembly Regulations, the Supreme Court Regulations, the Constitutional Court Regulations, the National Election Commission Regulations, or the Regulations of the Board of Audit and Inspection.

(3) If the Board of Audit and Inspection or the head of a relevant public organization deems that an inspection request is groundless, such board or head shall dismiss the request and inform the requester thereof within 10 days of when the decision of dismissal comes.

#### **Article 75 (Inspection on Request)**

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

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

#### **Article 76 (Operation)**

Matters necessary for citizens' request for inspection, except as otherwise provided for in this Act, shall be governed by the National Assembly Regulations, the Supreme Court Regulations, the Constitutional Court

Regulations, the National Election Commission Regulations, or the Regulations of the Board of Audit and Inspection.

## **CHAPTER VIII SUPPLEMENTARY PROVISIONS**

### **Article 77 (Proposal, etc. for System Improvement)**

(1) The Commission may, if there is found any unreasonable system in the course of handling a complaint or if there are other matters the improvement of which is deemed necessary, submit opinions thereon to the President or the National Assembly.

(2) If, in the course of handling a complaint, it is deemed that any relevant Act or ordinance is obviously unreasonable, the Commission or the local Ombudsman may submit opinions on the amendment or repeal of such Act or ordinance to the National Assembly or the relevant local council.

### **Article 78 (Protection of Information on Complaint)**

The Commission, the local Ombudsman and the administrative agency, etc. concerned shall endeavor not to violate the interests of the relevant petitioner and other interested persons due to the disclosure of information on a complaint.

### **Article 79 (Notice, etc. of Matters Necessary to File Complaint)**

(1) The Commission, the local Ombudsman and the head of the administrative agency, etc. concerned shall, to the extent possible, provide convenience, including a notice of matters necessary to file a complaint, the keeping of manuals, etc.

(2) The Commission and the local Ombudsman shall, in dealing with a complaint, have any employee in charge implement directly the procedures necessary for the confirmation of materials, the cooperation with the administrative agency, etc. concerned, etc. and otherwise endeavor to promote the convenience of the relevant petitioner.

### **Article 80 (Cooperation with Administrative Agencies, etc. Concerned)**

(1) The Commission and the local Ombudsman may, if deemed necessary, request the administrative agencies, etc. concerned to provide assistance necessary to perform the duties.

(2) Those administrative agencies, etc. concerned which are requested to provide assistance by the Commission and the local Ombudsman shall, bona fide, comply with such request, unless there is any justifiable reason to the contrary.

#### **Article 81 (Education, Promotion, etc.)**

(1) The Commission and the local Ombudsman may provide education and raise public awareness necessary to awaken public consciousness of rights and to remedy violations thereof, if any.

(2) The Commission and the local Ombudsman may consult with the Minister of Education, Science and Technology to assist schools to provide education to handle complaints, remedy violations of rights and fight corruption.

(3) The Commission and the local Ombudsman may consult with the heads of the administrative agencies, etc. concerned to include the contents of complaint systems and anti-corruption in any education or training course for public officials.

#### **Article 82 (Employment Restrictions on Public Organization Employees Dismissed for Corruption)**

(1) Any public organization employee who rightly resigns, or has been dismissed or removed from office for committing an act of corruption in connection with his/her duties shall be prohibited from landing a job in any public organization, any private company of not less than a certain scale established for profits, which is related to his/her former public service area for three years in the leading up to his/her resignation (hereinafter, the "for-profit company"), or any corporation or organization (hereinafter, the "association") which has been established for the purpose of seeking a common interest and mutual cooperation with a for-profit company, for 5 years from the date on which s/he resigns.

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

### **Article 83 (Demand for Dismissal of Employed Persons)**

(1) In the event that a person is employed in a public organization in violation of the provisions of Article 82, the Commission shall demand that the head of the public organization concerned dismiss him/her and comply with the demand unless any justifiable grounds exist.

(2) In the event that a person is employed in a for-profit company or an association in violation of the provisions of Article 82, the Commission shall demand that the head of the public organization concerned take steps to terminate his/her employment in the company or association and the head of the public organization concerned shall, upon receipt of this demand, request the head of such for-profit company or such association to dismiss him/her. In this case, the head of the for-profit company or the association shall promptly comply with the request unless there are justifiable grounds that render it too difficult for him/her to do so.

### **Article 84 (Special Case for National Assembly, etc.)**

The National Assembly, courts, the Constitutional Court, the National Election Commission, or the Board of Audit and Inspection shall exert voluntary efforts to sincerely perform the work provided for in each of subparagraphs 5 through 8 of Article 12 to prevent internal corruption.

### **Article 85 (Delegation Provisions)**

(1) With regard to administrative appeals, otherwise stipulated in the Act, the Administrative Appeals Act is applied.

(2) Matters necessary to enforce this Act, other than what is prescribed by this Act, shall be prescribed by the Presidential Decree, the National Assembly Regulations, the Supreme Court Regulations, the Constitutional

Court Regulations, the National Election Commission Regulations, or the Regulations of the Board of Audit and Inspection.

## **CHAPTER VIII PENAL PROVISIONS**

### **Article 86 (Offense of Exploiting Office Secrets)**

(1) If any public organization employee is found to have violated the Article 7 (2), s/he shall be punishable with not more than 7 years in prison or with not more than KRW50 million in fines. <Amended by Act No. 9342, Jan. 7, 2009>

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

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

### **Article 87 (Offense of Leaking Office Secrets)**

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

### **Article 88 (Offense of Leaking Personal Information)**

Any person, who violates paragraph (5) of Article 64, shall be sentenced to not more than three years in prison or be fined not more than 10 million Korean won.

### **Article 89 (Offense of Violating Employment Restrictions on Public Organization Employees Dismissed for Improprieties)**

If any public organization employee who has been dismissed for improprieties is employed in any public organization, any for-profit company or any association in violation of Article 82 (1), s/he shall be

punishable with not more than 2 years in prison or with not more than 20 million won in fines.

### **Article 90 (Offense of Disobedience)**

If a person who disadvantaged or discriminated against an informant, complainant or whistle-blower in terms of public position or working conditions pursuant to Article 62 (1) fails to meet the requests prescribed in Article 62 (7), then s/he will be sentenced not more than one year in prison or be fined not more than 10 million won.

### Article 91 (Fine for Negligence)

**(1)** Any person who falls into one of the following categories shall be punishable with not more than 10 million won in fines for negligence.

1. A person who disadvantages or discriminates against an informant, complainant or whistle-blower in terms of his/her public position or working conditions prescribed in paragraph (1) of Article 62
2. A person who violates paragraph (6) of Article 62 and fails to meet the requests or inquiries prescribed by paragraph (5) of the same article
3. A person who fails to meet the Commission's demand according to Article 62 (7) without reasonable grounds, except for a person who disadvantages or discriminates against an informant, complainant or whistle-blower in terms of public position or working conditions under Article 62 (1)

**(2)** Any person who obstructs, refuses, evades, or intentionally delays the performance of duties under Article 42 without any justifiable reason shall be punished by a fine for negligence not exceeding 5 million won.

**(3)** A fine for negligence under paragraph (1) and (2) shall be imposed and collected by the Commission in accordance with Presidential Decree

**(4)** When the Commission imposes a fine for negligence in accordance with paragraph (1) and (2), it shall investigate and confirm the act of violation and then notify a person subject to a disposition taken to impose such fine for negligence that he should pay the fine for negligence by specifying the fact of violation, the method of raising an objection thereto, the period

during which such objection is raised, the amount of the fine for negligence, etc.

(5) Any person who is dissatisfied with a fine for negligence imposed under paragraph (3) may, within thirty days of being notified of such an imposition, raise an objection to the Commission.

(6) If any person on whom a fine for negligence is imposed under paragraph (3) raises an objection under paragraph (4), the Commission shall, without delay, notify a court of competent jurisdiction, which shall, in turn, proceed to trial on the fine for negligence pursuant to the Non-Contentious Case Litigation Procedure Act

(7) If any person on whom a fine for negligence is imposed neither raises an objection within the period of time referred to in paragraph (5), nor pays the fine for negligence, the collection thereof may conform to the practice of dispositions on nonpayment of national taxes

(8) Necessary matters concerning criteria for imposing a fine for negligence for violating Article 62 (1) shall be prescribed separately.

#### **Article 91 (Fine for Negligence)**

(1) Any person who falls into one of the following categories shall be punishable with not more than 10 million won in fines for negligence.  
<Amended by Act No. 9342, Jan. 7, 2009>

1. A person who disadvantages or discriminates against an informant, complainant or whistle-blower in terms of his/her public position or working conditions prescribed in paragraph (1) of Article 62
2. A person who violates paragraph (6) of Article 62 and fails to meet the requests or inquiries prescribed by paragraph (5) of the same article
3. A person who fails to meet the Commission's demand according to Article 62 (7) without reasonable grounds, except for a person who disadvantages or discriminates against an informant, complainant or whistle-blower in terms of public position or working conditions under Article 62 (1)

(2) Any person who obstructs, refuses, evades, or intentionally delays the performance of duties under Article 42 without any justifiable reason shall be punished by a fine for negligence not exceeding 5 million won.

(3) A fine for negligence under paragraph (1) and (2) shall be imposed and

collected by the Commission in accordance with Presidential Decree

(4) Deleted <Jan. 7, 2009>

(5) Deleted <Jan. 7, 2009>

(6) Deleted <Jan. 7, 2009>

(7) Deleted <Jan. 7, 2009>

(8) Deleted <Jan. 7, 2009>

[Enforcement date : July 8, 2009]

## **ADDENDA <Act No. 8878, Feb. 29, 2008>**

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

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

### **Article 2 (Annulment of other Acts)**

The following Acts are annulled.

1. Anti-Corruption Act
2. Act on the Establishment and Operation of the Ombudsman of Korea

### **Article 3 (Transitional Measures concerning Works and Public Officials due to the Abolition and Establishment of Committee Organizations)**

(1) The works conducted by the Ombudsman of Korea and the Korea Independent Commission Against Corruption when this Act enters into force are succeeded by the Anti-Corruption & Civil Rights Commission.

(2) The commissioners excluding the Chairpersons and standing commissioners who serve political service of the Ombudsman of Korea and the Korea Independent Commission Against Corruption at the time of enforcement of this Act are regarded to be appointed or commissioned as commissioners of the Anti-Corruption & Civil Rights Commission. In this case, the term of office is the remaining period.

(3) The public officials belonging to the Ombudsman of Korea and the Korea Independent Commission Against Corruption at the time of enforcement of this Act are regarded as the ones belonging to the Civil

Rights Commission.

**Article 4 (Transitional Measures concerning Work Transfer)**

(1) The actions conducted by and to the Ombudsman of Korea and the Korea Independent Commission Against Corruption in accordance with the Act on the Establishment and Operation of the Ombudsman of Korea and the Anti-Corruption Act at the time of enforcement of this Act are regarded as actions conducted by and to the Anti-Corruption & Civil Rights Commission.

(2) The inspection requests filed by the people in accordance with the Anti-Corruption Act, and works conducted by the Board of Audit and Inspection of Korea, the National Assembly, the Courts, the Constitutional Court or the National Election Commission with regard to those requests at the time of enforcement of this Act are regarded to be performed based on this Act.

**Article 5 (Transitional Measures concerning Secondees)**

The public officials or employees belonging to relevant institutions - organizations who are seconded to the Ombudsman of Korea and the Korea Independent Commission Against Corruption at the time of enforcement of this Act are regarded as those seconded to the Anti-Corruption & Civil Rights Commission.

**Article 6 (Relationship with Other Acts and Subordinate Statutes)**

(1) When this Act enters into force, if the term 'Korea Independent Commission Against Corruption', 'Ombudsman of Korea' or its Chairpersons is cited in other Acts and subordinate statutes with regard to responsibilities of the Korea Independent Commission Against Corruption or the Ombudsman of Korea succeeded by the Anti-Corruption & Civil Rights Commission, it is regarded to be cited as 'Anti-Corruption & Civil Rights Commission or its Chairperson.

(2) If other Acts and subordinate statutes cite the provisions of the Act on the Establishment and Operation of the Ombudsman of Korea or the Act on

Anti-Corruption at the time of enforcement of this Act, the corresponding provisions of this Act are regarded to be cited.

**ADDENDUM <Act No. 9342, Jan. 7, 2009>**

This Act shall enter into force on the date of promulgation. However, the amendment to the Article 91 shall take effect 6 months after the date of promulgation.

**ADDENDA(PUBLICSERVICEETHICSACT) <Act No.9402Feb.3,2009>**

**Article 1(enforcement date)**

This Act shall enter into force on the date of promulgation. <Proviso is omitted>

**Article 2** is omitted

**Article 3 (amendment of other Acts)**

(1) through (3) are omitted

(4) The Act on Anti-Corruption and the Establishment and Operation of the Anti-Corruption & Civil Rights Commission shall be partially amended as follows;

"Article 3 (1) 10 of the Public Service Ethics Act" mentioned in the Article 2, 1 (d) shall be amended to "Article 3 (1) 12 of the Public Service Ethics Act."

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<sup>i</sup> Refer to Article 13 of the ACRC Act in the Annex.

<sup>ii</sup> Refer to Article 16 of the ACRC Act in the Annex.