



Manual on the Handling of Public Interest Reports and Protection of Public Interest Whistleblowers



Anti-Corruption &
Civil Rights Commission



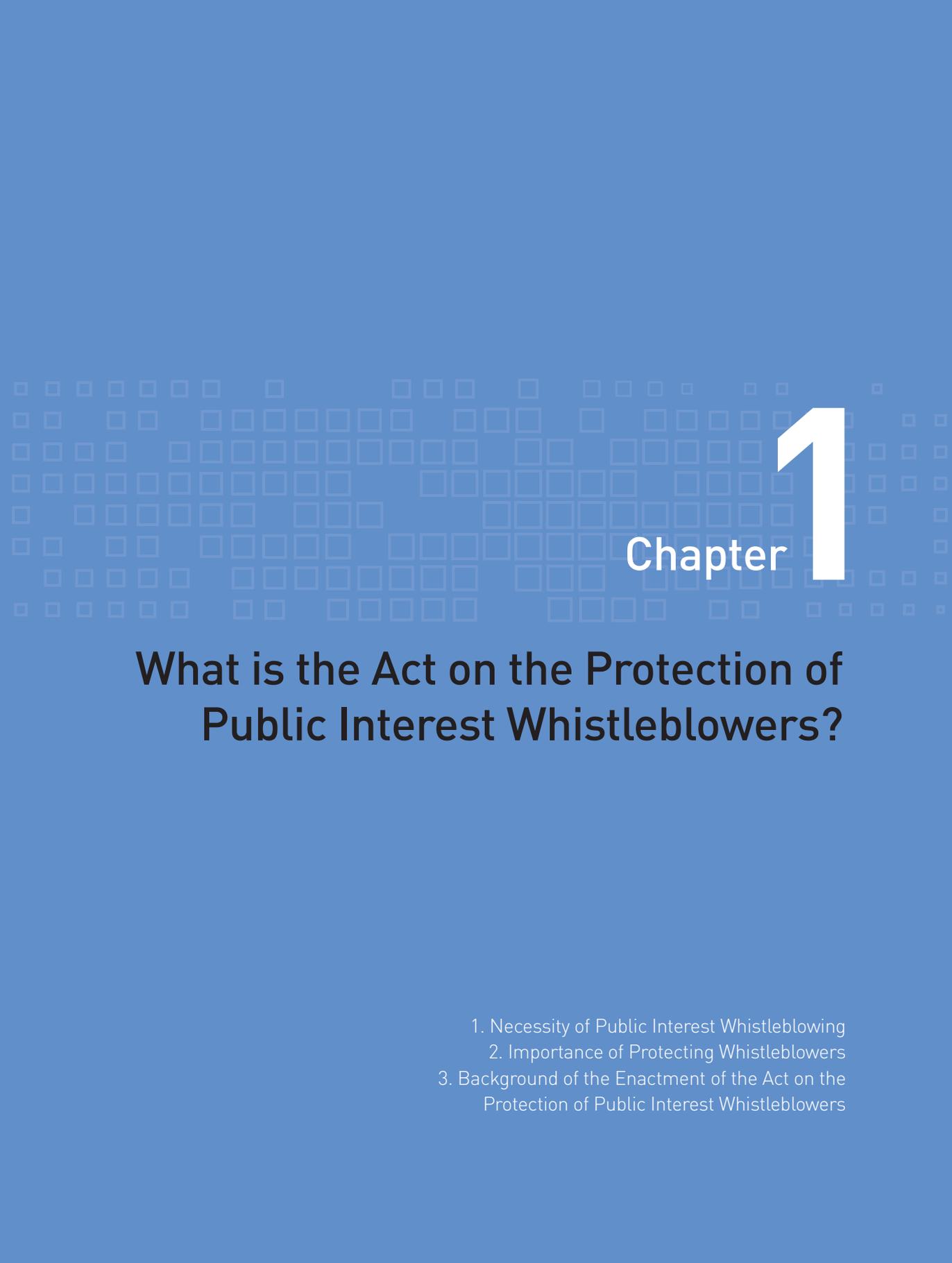
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Chapter

1

What is the Act on the Protection of Public Interest Whistleblowers?

1. Necessity of Public Interest Whistleblowing
2. Importance of Protecting Whistleblowers
3. Background of the Enactment of the Act on the Protection of Public Interest Whistleblowers

Chapter 1.

What is the Act on the Protection of Public Interest Whistleblowers?

1. Necessity of Public Interest Whistleblowing

As with corruption within the public sector, violations of public interest by the private sector, including cases of poor construction, the sale of harmful food, and environmental pollution, lead to massive social costs and significant losses to society as a result of the damage they inflict on public health, safety, and confidence. Since public interest violations occurring in modern society become more specialized and sophisticated and damage from them is huge, simply responding with countermeasures may be insufficient.

Public interest whistleblowing refers to the reporting of a public interest violation to an organization specifically tasked with overseeing public interest whistleblowing by anyone who knows that such violation occurred or is likely to occur in order to correct such violation. It also includes a report by public officials of any violation of relevant laws discovered while performing their duties to an examination organization, an investigative organization, or the Anti-Corruption and Civil Rights Commission (ACRC).

Though violation of public interest may bring temporary benefits to corporations, it will ultimately act as a risk factor against sustainable management. For this reason, an autonomous control system through which corporations may prevent violations of the public interest by way of whistleblowing will significantly assist those corporations in improving their competitiveness.

Public interest whistleblowing efficiently prevents and regulates violations of public interest which lead to distortion of social systems and the weakening of national competitiveness, and consequently protects the life and property of citizens while contributing to the enhancement the national brand value.

Cases of public interest whistleblowing can be classified into internal and external types. External public interest whistleblowing is undertaken by individuals outside an organization who recognize and report a violation in order to rectify a situation within that organization. Such cases are examples of genuine civic awareness.

Internal public interest whistleblowing, on the other hand, is undertaken by individuals inside a corporation or organization who recognize and report a violation in order to rectify a situation within that organization. Such behavior has great significance to organizations as it serves as a low-cost and highly-efficient measure for autonomous preventive control.

Violations of public interest occurring in the private sector have become more specialized and sophisticated in response to changes to society and the development of technology. Efforts made by administrative or investigative organizations are unable to expose all violations, and it is difficult for ordinary citizens to uncover and report them. Public interest whistleblowing by insiders, who may identify violations inside corporations or organizations comparatively earlier, facilitates the exposure of public interest violations. Corporations and organizations should therefore nurture a system of internal monitoring in order to prevent violations of public interest or rectify them when necessary.

Cases: Violation of public interest

- In 2006, Boeing, the world's largest aircraft manufacturer, was revealed through internal whistleblowing to have used unapproved parts on a 737.
 - Boeing assembly line workers detected the problem and tried to point it out, but the company, threatening legal action, silenced the potential whistleblowers.
 - Reports at the time told of previous safety incidents involving the Boeing 737, a number of which were in operation in Korea.
- In 2015, news of Volkswagen's fabricated emissions testing was reported. This led to economic losses caused by sales ban, recalls, and penalty surcharges imposed by governments around the world, and tarnished corporate image.
 - Volkswagen's technicians reported the fabrications in 2011, and there had been internal discussions in the U.S. regarding diesel issues a few weeks prior to the outbreak of the scandal, yet Volkswagen failed to rectify the violations or issue a recall.

2. Importance of Protecting Whistleblowers

The enactment of the Anti-Corruption Act in 2001 enabled the guarantee of the confidentiality and employment status for reporters of corruption occurring in the public sector.

In contrast, institutional measures for the protection of those reporting violations of public interest in the private sector were insufficient. Though these types of violations may harm public health, safety, and the environment, whistleblowers in the private sector were regarded as betrayers, and experienced insurmountable disadvantages to their personal and economic wellbeing, as well as mental and physical suffering.

The report of violations of the public interest is beneficial for entire society as it allows corporations and organizations to respond appropriately to and prevent violations which may threaten public safety. For this reason, public interest whistleblowers must be protected from reprisals due to their reporting which may potentially cause harm to their identity, wellbeing, or even life. Public interest whistleblowing helps us to build a safer and cleaner society, and it is the responsibility of all to protect such reporters.

Disadvantages to public interest whistleblowers before enactment of relevant Acts

- Report of poisonous substance release into the Han River
A report by a Korean-American civilian worker in the U.S. Armed Forces at the Yongsan Garrison in Korea revealed that formaldehyde had been dumped down a drain into the Han River. The Commanding General admitted the release of the poisonous substance and officially apologized, but renewal of the whistleblower's employment contract was refused.
- Report of fake Chinese sesame oil
A report was made to the Ministry of Food and Drug Safety (MFDS) stating that a company was selling Chinese sesame oil falsely labeled as Korean. It was also revealed that the sesame oil had been mixed with other cooking oils before being put up for sale. The company in question obtained personal information of the whistleblower during the trial and then filed a lawsuit against him for false accusation and impairment of the company's reputation. The whistleblower was forbidden from leaving the country.

3. Background of the Enactment of the Act on the Protection of Public Interest Whistleblowers

The Anti-Corruption Act enacted in 2001 aims to prevent corruption in the public sector and stipulates protective and supportive measures for reporters of corruption. Establishment of a separate Act was promoted in order to remove a blind spot in which reporters were not eligible for protection after reporting public interest violation in the private sector related to public health and safety. The Act on the Protection of Public Interest Whistleblowers was finally enacted in March 2011.

In October 2011, the OECD Working Group on Bribery, which reviews the implementation of the OECD Anti-Bribery Convention, commented that “Korea was assessed to be making notable progress” following the implementation of control measures against the violation of public interest and for the protection of whistleblowers in the private sector.

Prevention of the violation of public interest by protecting public interest whistleblowers has already become a global trend.

An investigation into an accident on Piper Alpha, a U.K. owned North Sea oil production platform, which killed 168 men in 1989 revealed the violation of safety measures. Employees failed to report these violations, however, as they feared retaliatory actions by the company. Recognizing the need for protective measures for whistleblowers, the U.K. government enacted the Public Interest Disclosure Act in 1998.

Japan saw disclosures of a number of corruption cases by internal whistleblowers in the 2000s, including a food-label scandal and Mitsubishi’s concealment of defective vehicles. The number of precedents that invalidated dismissals due to whistleblower reports also saw a rise. In response to this trend, and for the sake of public health and safety, Japan enacted the Whistleblower Protection Act in 2004 in order to protect whistleblowers who report criminal acts committed by corporations.

The U.S. also protects public interest whistleblowers with many independent Acts such as the False Claims Act and the Whistleblower Protection Act.

Cases: Legislation

Act	Act on the Protection of Public Interest Whistleblowers (Korea)	Public Interest Disclosure Act (UK)	Whistleblower Protection Act (Japan)
Reporter	<ul style="list-style-type: none"> • Anyone 	<ul style="list-style-type: none"> • Corporate employee • General public official 	<ul style="list-style-type: none"> • Corporate employee • General public official
Reporting subject	<ul style="list-style-type: none"> • Public health/safety • Environment • Consumer interest • Fair competition <p>※ Actions subject to punishment/ administrative measures in 279 laws</p>	<ul style="list-style-type: none"> • Criminal act • Violation of legal duty • Misconduct • Harm to employees' health/safety 	<ul style="list-style-type: none"> • Protection of individual's life/body • Preservation of environment • Protection of consumer interest • Securement of fair competition <p>※ Misconducts against 430 laws</p>
Receiving Organization	<ul style="list-style-type: none"> • Corporation, administrative/supervisory/investigative organization, ACRC, National Assembly members, public organization 	<ul style="list-style-type: none"> • Corporation(1st) → Government (2nd) → External reporting(3rd) 	<ul style="list-style-type: none"> • Corporation, administrative/investigative organization and any individual to whom a report needs to be made
Reporting method	<ul style="list-style-type: none"> • Fill in personal information and submit proofs 	<ul style="list-style-type: none"> • Not stipulated 	<ul style="list-style-type: none"> • Not stipulated
Requirement	<ul style="list-style-type: none"> • Exclude false/dishonest purpose 	<ul style="list-style-type: none"> • Reasonable trust based on the principle of good faith 	<ul style="list-style-type: none"> • Exclude false /dishonest purpose
Management process	<ul style="list-style-type: none"> • Corporations: establish countermeasures • Administrative/investigative organization: investigate reported cases and take measure accordingly • ACRC: identify examine the reported case and transfer it to examination/investigative organization • National Assembly member and public organization: report to other receiving organizations 	<ul style="list-style-type: none"> • Not specified management process (take measures according to the relevant laws) 	<ul style="list-style-type: none"> • Not specified management process (take measures according to the relevant laws)
Protection subject	<ul style="list-style-type: none"> • Guarantee of confidentiality and physical protection • Recommend protective measures and prohibition of disadvantage • Reduce criminal/civil liability • Mitigate disadvantageous administrative disposition 	<ul style="list-style-type: none"> • Prohibit disadvantageous measures including unfair dismissal • Protect identity until the employment court's ruling comes out • Invalidate the ban on reporting 	<ul style="list-style-type: none"> • Recover to the original status, including invalidation of dismissal and cancellation of contract for temporarily placed workers • Prohibit disadvantageous treatment
Protection process	<ul style="list-style-type: none"> • Request protection to the ACRC 	<ul style="list-style-type: none"> • Prohibit disadvantageous measures including unfair dismissal • File a lawsuit in the employment court 	<ul style="list-style-type: none"> • Request a trial according to the civil law
Support system	<ul style="list-style-type: none"> • Reward (max. KRW 2 bil, internal whistleblower), award (internal/ external whistleblower, max. KRW 200 mil), relief money (internal/ external whistleblower) 	<ul style="list-style-type: none"> • No reward/relief money 	<ul style="list-style-type: none"> • No reward/relief money
Non-Compliance Measures	<ul style="list-style-type: none"> • Max 3-year imprisonment or fine of KRW 30 million or under 	<ul style="list-style-type: none"> • Compensation by those who took disadvantageous actions can be judged (no upper limit) 	<ul style="list-style-type: none"> • No non-compliance measure

Comparison between public interest report and corruption report

	Corruption reporting	Public interest reporting
Applicable Act	Act on Anti-Corruption and the Establishment and Operation of the Anti-Corruption and Civil Rights Commission	Act on the Protection of Public Interest Whistleblowers
Reporting subject	Act of corruption stated in Article 2.4	Violation of public interest stated in Article 2.1 that infringes on public health/safety, the environment, consumer interest, and fair competition; Actions subject to penalty/administrative measure in 279 laws
Receiving organization	Report corruption to ① ACRC ② investigative organization ③ Board of Audit and Inspection ④ public organization to which a reported subject belongs and ⑤ its supervisory organization	① Organization/corporation in which public interest violation occurred ② competent administrative/supervisory organization ③ investigative organization ④ ACRC ⑤ National Assembly member ⑥ public organization related to execution of relevant laws
Sanction	① Request disciplinary action to violator of personal information protection (criminal penalty imposed when information of reporters under physical protection was divulged) and demand disciplinary action to those who took disadvantageous action ② Criminal penalty when not taking protective measures ③ Impose an administrative fine when not responding to requests for data/testimony/background check	① Request disciplinary action and criminal penalty to violator of personal information protection and those who took disadvantageous action ② Criminal penalty when not taking protective measure ③ Impose an administrative fine when not responding to special protective measure ④ Impose an administrative fine when not responding to requests for data/appearance/testimony
Reward	Provide rewards when corruption reporting recovers income to public organization * max. KRW 3 bil., no min.	Provide rewards when public interest reporting recovers income to national and local governments * max KRW 2 bil, min KRW 200,000 * limited to internal whistleblower
Repaying reward	No regulation	A local government whose income was recovered thanks to a public interest reporting is required to pay rewards to the reporter
Award	Provide award when corruption reporting improves public interest * max KRW 200 million	Provide awards when public interest reporting brings financial benefit or improves public interest * max KRW 200 million
Relief money	Not stipulated (expense paid to recover from disadvantageous action can be included in reward)	Provide relief money when public interest reporting causes treatment/moving/dispute expense and income loss

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Chapter 2

How Public Interest Whistleblowing Should Be Handled?

1. Understanding Public Interest Whistleblowing
2. Receipt of Public Interest Whistleblowing
3. Examination and Handling of Public Interest Whistleblowing

Chapter 2.

How Public Interest Whistleblowing Should Be Handled?

1. Understanding Public Interest Whistleblowing

(1) Concept of Violation of Public Interest

“Public interest” generally refers to an interest of society as a whole. The scope of public interest changes according to the social conditions of the time, and it is a recent trend that the concept of violation of public interest, meaning infringement upon the interest of society, has seen change and expansion.

Distinct from such lexical meaning and common notion, the Act on the Protection of Public Interest Whistleblowers defines “violation of public interest” as ① an act that infringes on the health and safety of the public, the environment, consumer interest and fair competition, ② that violates 279 laws related to subjects of public interest, and consequently ③ that is subject to criminal punishment or administrative action. In order to provide special protection for public interest whistleblowers and to warn that the level of sanction would be high when a violation occurs, the Act specifies public interest violation in advance.

Cases: Legislation

- The Public Interest Disclosure of the U.K. prescribes comprehensive definitions.
 - A criminal offense or an offense that is likely to occur; an act violating the law or an act violating the law that is likely to occur
 - An act that risks an individual's life, health, and safety or the destruction of the environment
- The Whistleblower Protection Act of Japan prescribes individual listing.
 - An act regarding the protection of interest, including the life, body, and wealth, of the public; criminal acts defined in approximately 450 laws listed in the attached table (including disobedience of an order according to law)

To be considered a violation of public interest, an act must violate one of the 279 laws subject to criminal punishment or administrative measure, while at the same time it must infringe upon at least one of five areas related to public interest: public health, public safety, the environment, consumer interest, and fair competition. If an act violates any of the 279 laws but it would be difficult to determine that the act has violated any of the five areas of public interest, for example a simple non-compliance with a reporting period to an administrative organization, the act is not considered a violation of public interest subject to report.

Related cases

- Reward for public interest whistleblowing related to the illegal expansion of restaurant surface area
 - The MFDS has revised articles regarding rewards under the Food Sanitation Act, which is subject to public interest whistleblowing. Illegal expansion of the surface area of a restaurant is defined as a minor issue rather than a significant health risk, and is therefore not subject to reward upon report.
 - The ACRC has decided that, according to the public notice of the MFDS and the revision of the Enforcement Decree of the Food Sanitation Act, the abovementioned act cannot be seen as a violation of public interest risking public health, and is therefore not subject to reward.

A. Five Areas of Public Interest

The five public interests protected by the Act are ① public health, ② public safety, ③ the environment, ④ consumer interest, and ⑤ fair competition. Rather than being applied

uniformly and equally, the five areas must be considered based on the type of violation in question, relevant legislation, and any other facts of relevance.

B. Acts That Are Subject to Punishment and Administrative Measure When Violating One of the 279 Laws

The attached table lists 279 laws that are related to violation of public interest, including the Food Sanitation Act, the Wastes Control Act, and the Medical Service Act. At the initial time of enactment, the list included 180 laws, but it was expanded to 279 in January 2016 to include more laws related to public health and safety and protection of the socially vulnerable, for which the necessity of protecting whistleblowers had been raised. The scope of laws related to violation of public interest may continue to be expanded through additional legislation as required by the system.

The violations of public interest must be acts that are subject to punishment or administrative measures for the violation of one of the 279 laws. If an act infringes on any of the five public interests, such as public health or safety, but does not violate one of the 279 laws, or vice versa, the act cannot be seen as a violation of public interest subject to the law.

Acts subject to punishment are those acts punishable under Article 41 (Kinds of Punishment) of the Criminal Act due to violation of any of the 279 laws.

Article 41 (Kinds of Punishment)

1. Death penalty
2. Imprisonment
3. Imprisonment without prison labor
4. Deprivation of qualifications
5. Suspension of qualifications
6. Monetary fine
7. Detention
8. Minor fine
9. Confiscation

Acts subject to administrative measure refer to those acts that may be met with administrative measures decided by a presidential decree, such as cancellation of approval/permission or the imposition of an administrative fine, when in violation of any of the 279 laws.

Scope of administrative measures stated by presidential decree (Article 3 of the Enforcement Ordinance)

1. Cancellation, withdrawal, or obliteration of approval, permission, patent, licensing, approbation, appointment, qualification, certification, confirmation, verification, registration, etc.
2. Suspension of operation, business, force, qualification, etc.
3. Other measures that call for a specific action against an obligator's intention, such as correction, facility repairment, transfer, closure, demolition, announcement of violation, etc.

The court recently made a decision that a case in which a violation has not been confirmed can still be considered as a public interest whistleblowing case. Therefore, even if the reported act has not been confirmed to be subject to punishment or administrative measure according to the laws related to violation of public interest, if the content of the report in question can be deemed to be subject to punishment or administrative measure, and the whistleblower could not or did not know whether the content of whistleblowing is true, it can be still considered as public interest whistleblowing.

Examples: Violation of public interest

- ① Violation of public interest infringing on public health
 - Unlicensed medical practices including medical practices performed by non-medical personnel or medical practices other than those licensed by medical personnel
 - ☞ Article 27 of the Medical Service Act (imprisonment for not more than five years or fine of up to KRW 20 million)
 - Sales of or manufacturing/processing/using/cooking/storing/delivering/displaying in order to sell food containing toxic/harmful substances that may pose health risks
 - ☞ Article 94 of the Food Sanitation Act (imprisonment for not more than seven years or fine of up to KRW 100 mil)

- ② Violation of public interest infringing on public safety
 - Any insincere practice of supervision, or the violation of Acts related to construction safety, which results in significant destruction to the main structure or facilities, including bridges, tunnels, or railways, and causes risk to the public
 - ☞ Article 41 of the Construction Technology Promotion Act (imprisonment for not more than ten years or fine of up to KRW 100 mil)

- Sales of lamp oil, lubricant, marine diesel oil, etc. by petroleum businesses to be used as fuel for automobile or construction equipment
 - ☞ Article 45 of the Petroleum and Petroleum Substitute Fuel Business Act (imprisonment for not more than three years or fine of up to KRW 100 mil)
-

③ Violation of public interest causing environmental damage

- Installment or operation of a facility that emits air pollutants, such as carbon monoxide, without installation of air pollution control devices, such as dust collectors
 - ☞ Article 86 of the Framework Act on Consumers (fine of up to KRW 30 mil)
 - Building or expanding upon construction projects thereby changing the form or quality of landscape within an area of conservation requiring special ecosystem protection, leading to damage to the natural environment or landscape
 - ☞ Article 63 of the Natural Environment Conservation Act (imprisonment for not more than three years or fine of up to KRW 20 mil)
-

④ Violation of public interest infringing on consumer interest

- If a business operator discovers a significant defect in products being provided to consumers that causes or may cause harm to their lives, bodies, or wealth, but fails to report such a defect to the competent governmental body
 - ☞ Article 86 of the Framework Act on Consumers (fine of up to KRW 30 mil)
 - If a grain seller deceives consumers about the production year and quality of grain or marks/advertises falsely or excessively leading to misperception or confusion
 - ☞ Article 21 of the Grain Management Act (suspension of business up to six months or closure of business)
-

⑤ Violation of public interest infringing on fair competition

- If a market dominant business operator abuses its position by making unreasonable decisions, retention, or changes regarding a product price or service cost
 - ☞ Article 66 of the Monopoly Regulation and Fair Trade Act (imprisonment for not more than three years or fine of up to KRW 200 million)
- If a contractor entrusts a subcontractor to manufacture or do other tasks and uses unreasonable methods resulting in remuneration significantly less than market average for the same or similar orders
 - ☞ Article 25.3 of the Fair Transactions in Subcontracting Act (fine of up to twofold of subcontracting amount)

(2) Concept of Public Interest Whistleblowing

A. Public Interest Whistleblowing

“Public interest whistleblowing” refers to the act of reporting, petitioning, informing, filing a complaint, accusing, or providing investigation clues when a violation of public interest occurs or is likely to occur. The concept includes the report of simple information and investigative clues along with petition to urge an administrative or investigative organization to exercise authority, accuse, and charge and request punishment.

Public interest whistleblowing is not an entirely new reporting system established after the enactment of the Act on the Protection of Public Interest Whistleblowers, but rather a concept that defines, according to the 279 laws, complaints that have already been filed to and handled by administrative and investigative organizations and related public corporations.

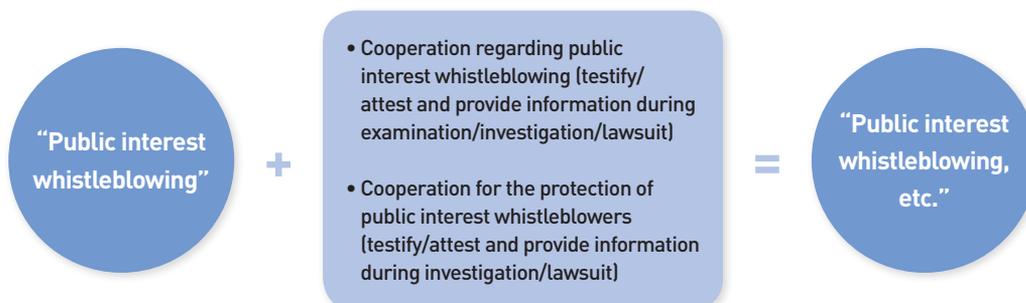
Types of public interest whistleblowing

- Reporting: the act of writing and submitting information or facts of relevance to national and local governments according to relevant laws
- Petitioning: the act of stating a situation to the national and local governments and requesting an action
- Filing a complaint: the act, by the victim, of reporting a crime to investigative organizations and requesting that a charge be filed against the accused criminal
- Accusing: the act, by a person other than the victim, of reporting a crime to investigative organizations and requesting that a charge be filed against the accused criminal
- Informing: the act of providing information to administrative or investigative organizations
- Providing investigation clues: the act of providing clues that may lead to an investigation by investigative organizations

B. Public Interest Whistleblowing, etc.

In order to disclose a violation of public interest, it is occasionally necessary to cooperate with persons other than public interest whistleblowers to testify or attest to relevant facts during an examination, investigation, or lawsuit. If a public interest whistleblower faces any disadvantage due to the public interest whistleblowing, it is also occasionally necessary to have persons other than the public interest whistleblowers testify or attest.

Such acts of testifying, attesting, or providing information during investigations and lawsuits related to the protection of public interest whistleblowing and whistleblowers fall into the category of “public interest whistleblowing, etc.”



Examples: Public interest whistleblowing, etc.

- Cooperation regarding public interest whistleblowing
 - In the case of whistleblowing regarding a food company’s commercial distribution of agricultural and marine products containing toxic substances, the company’s employees cooperated with the MFDS investigation and made a statement or submitted evidential materials on the illegal practice of the company
- Cooperation for the protection of public interest whistleblowers
 - An employee working at a dye company reported the discharge of factory wastes and was dismissed. The employee requested protection measures to the ACRC. A person in charge of personnel management at the company testified during the ACRC investigation that the whistleblower was dismissed by the company’s CEO due to the whistleblowing.

(3) Concept of Public Interest Whistleblower

“Public interest whistleblowers” refer to those who report violations of public interest. Article 6 stipulates that any person may report a violation of public interest that has already occurred or is likely to occur. The Act does not limit who is eligible to report; therefore those who are not internal reporters, such as employees or those related to the concerned organization, can also make a report.

The scope of eligible reporters is not limited to insiders as it is necessary to strengthen citizens monitoring in order to respond to and prevent the expanding range of types of violation of public interest. In addition, in the areas of consumer interest, fair transaction, and the environment, many reports are made by individuals outside of organizations, such as cooperative partners, customers, and consumers. If the scope of eligible reporters were to be limited to employees, it would be easy to track down or infer the identities of whistleblowers, ultimately making them vulnerable to disadvantages measures. It would also result in a blind spot where external whistleblowers cannot be protected by the law.

Public interest whistleblowers and those who cooperate regarding public interest whistleblowing and the protection of public interest whistleblowers are called “public interest whistleblowers, etc.” Those involved in such cooperation receive the same protection that the public interest whistleblowers receive.

In order to strengthen protection and increase rewards for internal whistleblowers who are highly likely to face disadvantages related to their position, personnel affairs, and economic wellbeing, Protection of Public Interest Whistleblowers Act was amended and took into effect in January 2016. The amended law set out the scope of internal public interest whistleblowers, established special protective measures for public interest whistleblowers, and set a new limit on the provision of rewards to public interest whistleblowers.

Newly inserted provision: Protection and reward for internal public interest whistleblowers

- (Protection) If there is a valid reason to believe that a violation of public interest occurred at the time of whistleblowing, internal public interest whistleblowers will be protected regardless of the actual occurrence of a violation of public interest.
- (Reward) The provision of reward is limited to internal public interest whistleblowers. The maximum amount increased from KRW 1 billion to KRW 2 billion.

Scope of internal public interest whistleblowers (the Act and its Enforcement Decree)

- ① A person who works or worked for a public institution, enterprise, corporation, organization, etc. that are reported (Subparagraph 7 (a) of Article 2 of the Act);
- ② A person who conducts or conducted affairs in accordance with a construction or service contract or any other contract entered into with a public institution, enterprise, corporation,

organization, etc. that are reported (Subparagraph 7 (b) of Article 2 of the Act)

- ③ A person who is receiving or received education or training, including on-the-job education and on-site training, at a public organization, corporation, corporate body, organization, etc. that are reported, before being employed and beginning work at such organization (Article 3-2.1 of the Enforcement decree)
- ④ A person who is working or worked in a public service related organization, designated under Article 3-2 of the Public Service Ethics Act, which is supervised by the public organization that is reported (Article 3-2.2 of the Enforcement decree)
- ⑤ A person who is working or worked in an affiliated corporation or affiliated corporate body of the reported corporation or corporate body according to Article 2.3 of the Monopoly Regulation and Fair Trade Act (Subparagraph 3(a) of Article 3-2 of the Enforcement decree)
- ⑥ A person who is working or worked in a corporation or corporate body in a parent-subsidiary relationship with the reported corporation or corporate body according to Article 1-.2.2 of the Act on External Audit of Stock Companies and Article 1-3 of its Enforcement Decree (Subparagraph 3(b) of Article 3-2 of the Enforcement decree)
- ⑦ Anyone who is instructed, managed, or supervised by a public organization, corporation, corporate body, organization, etc. that are reported, and may face disadvantages from that public organization, corporation, corporate body, organization, etc. due to the reporting (Article 3-2.4 of the Enforcement decree Enforcement decree, Article 3.2.4)

There are four types of internal public interest reporters: ① A person who is employed by the reported organization, such as an employee and intern, ② A person who conducts affairs in accordance with contract with the reported organization such as suppliers and subcontractors, ③ A person who are influenced by the reported organization, such as employees of affiliated organizations, and ④ a person who is instructed or supervised by the reported organizations, such as a student.

Things to be taken into account when deciding an internal public interest reporter

- ① Work relationship: Δ According to the Labor Standards Act, a work relationship is not limited to laborers who have made a labor contract, but also includes whistleblowers in various types of work relationships with the company subject to whistleblowing, regardless of the length and continuity of contract. Δ Those who expect to make a labor contract, such as interns, are also included, even if the work relationship has not yet been officially made.
- ② Contract relationship: Δ Buyers or consumers are not included in contract relationships because a basic prerequisite is that both parties should be included in the continued

contract. Δ Those who perform specific tasks according to temporary contracts are also included and the scope is not limited to those who perform tasks directly.

- ③ De facto influence relationship: Δ In a de facto influence relationship, a reporter and the reported organization are not directly bound by a contract, but the reported organization holds influence over the company to which the whistleblower belongs, making it highly likely that the reporter faces disadvantages as a result of the reporting. Δ If the reported organization is a public organization, employees of its affiliated public service related organizations are included in this category. If the reported organization is a private company, employees of its subsidiaries or corporations and corporate bodies in parent-subsidiary relationship are included.
- ④ Instruction, management, or supervision relationship: Not only those who are under instruction, management, or supervision relationship according to related laws, but also those who are in de facto instruction, management, or supervision relationships are included.

(4) Concept of Public Interest Whistleblowing Agencies

“Public interest whistleblowing agencies” are those organizations to which public interest whistleblowers can report violations of public interest. Article 6 of the Act states four public interest whistleblowing agencies (administrative agencies or supervisory agencies), and Article 5 of the Enforcement Decree adds National Assembly members and public organizations to reporting agencies. In total, six agencies are eligible receivers of public interest whistleblowing reports.

Public interest whistleblowing agencies (Article 6 of the Act, Article 5 of the Enforcement Decree)

- Representative or employer of a person, institution, organization, company, etc. who violates public interest
- Examination agency: administrative or supervisory organizations that have the authority to direct, supervise, regulate or investigate violations of public interest
- Investigative agency: prosecutor, general/special judicial police officer
- ACRC
- National Assembly members
- Public organizations that have been established according to laws concerning violation of public interest

Public organizations that have been established according to laws concerning violation of public interest refer to public organizations whose grounds for establishment are stipulated in 279 related laws. If a public organization established under the laws other than the 279 laws is entrusted or commissioned to carry out works subject to public interest violations under the 279 related laws, it may also be included in the category.

Examples: Type of public interest whistleblowing per reporting agency

- Reported to the head of a food company concerning a violation of the Food Sanitation Act, delivering and using food ingredients containing toxic substances
- Reported to a local public health center concerning a violation of the Medical Service Act, unlicensed medical practice
- Reported to police headquarters concerning a violation of the Wastes Control Act, release of factory wastes by a dye company
- Reported to the ACRC concerning a violation of the Food Sanitation Act, selling harmful food
- Reported to a National Assembly Member concerning a violation of the Railroad Safety Act, lax maintenance standards for railroad cars
- Reported to the Korea Gas Safety Corporation concerning a violation of the Safety Control and Business of Liquefied Petroleum Gas Act, damaging gas facilities

Regardless of the public interest whistleblowing agency to which a whistleblower chooses to report, an equal level of protection and reward will be provided as established by laws including the launch of examination/investigation, confidentiality, protective measures, physical protection, and reward/award/relief money.

☆ Q&A

1. How do you distinguish between ‘petitioning’ and ‘public interest whistleblowing’ when reporting to National Assembly members?

A case of public interest whistleblowing is different from a petition which is defined in the National Assembly Act and the Petition Act as the submission of a written petition upon receipt of an introduction from a National Assembly member. In the case of a petition, protection and reward measures stipulated by the Act, including confidentiality, protective measures, physical protection, reward and relief money, cannot be provided.

2. Can I report to National Assembly members' assistants?

Article 6 of the Act on the Protection of Public Interest Whistleblowers recognizes National Assembly members as a public interest whistleblowing agency. Each National Assembly member is an independent constitutional entity. National Assembly members are assisted by officials, such as aides, in special government service for legislative activities according to Article 9 of the Act on Allowances, etc. for National Assembly Members. Therefore, the receipt and handling of public interest whistleblowing reports by National Assembly members' assistants can be seen the receipt and handling by the National Assembly members themselves.

3. Can I report to Local Assembly members?

Only National Assembly members, not Local Assembly members, are included in the list of public interest whistleblowing agencies; therefore, violation of public interest occurring within the jurisdiction of a certain local government cannot be reported to Local Assembly members. If, however, the local government is considered an administrative or supervisory organization invested with the authority to direct, supervise, regulate, or investigate whistleblower reports of violations of public interest, a report can be made to that local government.

4. What is the scope of public service related organizations as public interest whistleblowing agencies?

Public service related organizations that have been established according to laws concerning violation of public interest are the public interest whistleblowing agencies able to receive public interest whistleblowing reports. In addition, other public service related organizations holding the authority to direct, supervise, regulate, or investigate subjects of whistleblowing according to laws concerning violations of public interest or by the commission of those laws can also receive public interest whistleblowing reports.

5. Can a corporation receive and handle public interest whistleblowing autonomously?

The representative or employer of a person, institution, organization, company, etc. who violates public interest can receive a public interest whistleblowing report. This provision enables corporations to autonomously prevent and control violations of public interest. For example, an employee or consumer can report violations occurring internally, such as the illegal release of wastewater, to the employer or the audit department. This

applies to all corporations with one or more employee, regardless of the establishment of a reporting system.

6. Can I report trade secrets?

Even trade secrets are subject to public interest whistleblowing if they may threaten public health, safety, or the environment. If such a secret is reported, the whistleblower would not be considered to have breached the obligation of confidentiality in connection with duty as stated in employment rules. In addition, even if the subject of whistleblowing experiences damages due to the whistleblowing, that subject cannot demand compensation from public interest whistleblowers, etc. Furthermore, any collective, employment, or supply agreement that bans or limits public interest whistleblowing will be invalidated.

2. Receipt of Public Interest Whistleblowing

(1) How to Report

Reports, whether physical or electronic, must be submitted in writing and contain personal information along with attached evidence of the concerned violation of public interest.

If there is a specific reason that written documents cannot be submitted, a report can be made orally, though evidence of the violation of public interest must still be submitted. Those receiving a whistleblower's report orally are obligated to record what they have been told in writing onto a reporting form, read the report back to the whistleblower, and have the whistleblower sign or place a seal on the form.

Anyone who witnesses a violation of public interest can report to a public interest whistleblowing agency, and all public interest whistleblowing agencies must receive each reported case based on relevant laws.

What to write on the reporting form (Article 8.1)

1. Personal information of whistleblower, including name, resident registration number, address, and contact number
2. Name of person who has violated public interest
3. Factual description of violation of public interest
4. Purpose and reason for public interest whistleblowing

(2) What to Confirm When Receiving a Report

A. Formal Requirements

It must be confirmed whether written documents (including electronic documents) contain all necessary information, including personal information and evidence of the concerned violation of public interest. If any information is omitted or unclear, the whistleblower must be requested to revise and supplement the report within a given period. Such revisions can be made without using official reporting forms.

Example: Reporting form

Reporting Form					
Date		No.		Process period	
Reporter	Name		Resident registration no.		
	Address				
	Contact no.		Occupation		
Subject	Name		Resident registration no.		
	Address				
	Contact no.		Occupation		
Purpose and reason for reporting					
Factual description					
Evidence					
I hereby report violation of public interest as detailed above.					
Date:					
Reporter:					
[sign or seal]					

A report that has been submitted without personal information of the whistleblower or, made anonymously or under an assumed name, will not be considered as a valid public interest whistleblowing report. Even if the report was made anonymously or under an assumed name, disclosing the whistleblower's identity or notifying the subject of whistleblowing of the reported content is prohibited.

B. Practical Requirements

It must be confirmed that the reported content falls under the scope of violations of public interest. For this purpose, it must be identified whether ① the reported content is subject to criminal punishment or administrative measure due to violation of any of the 279 laws to which public interest whistleblowing reports are subject, and ② the reported content infringes on at least one of the five public interest areas of public health, public safety, the environment, consumer interest, and fair competition.

The decision of whether a reported infraction has infringed on one or more of the five public interest areas requires legal, professional, and technical judgment; therefore, it is deemed appropriate to consider and handle a case on the basis that it is thought to be subject to punishment or administrative measure due to noncompliance with any of the 279 laws.

The confirmed occurrence of a violation of public interest is not a prerequisite when deciding if a reported infraction should be considered an act in violation of the public interest.

Relevant judgments

- The Seoul High Court announced the following decision on May 1st, 2014 (2013 Nu 16908):
 - Even though a reported case is not factual and is not subject to punishment or administrative measure as stipulated in the Act [attached table] or the Enforcement Decree [attached table 1], if the reported content itself is sufficient to be assessed as subject to punishment or administrative measure, or if a reporter was unaware that the case was not factual, the case can be considered public interest whistleblowing.

C. Agreement on Disclosing Personal Information

Article 12 of the Act prohibits disclosing or reporting the personal information of public interest whistleblowers, etc., or providing information, without consent from

whistleblowers, etc., that could help infer their identities. Article 13 of the Enforcement Decree also states that the personal information of public interest whistleblowers, etc. should not be disclosed without consent from the whistleblowers, etc. during the receipt and handling process at all public interest whistleblowing agencies.

To comply with this decree, all public interest whistleblowing agencies must confirm whether a public interest whistleblower has agreed to disclose or imply their personal information while handling public interest whistleblowing reports.

Example: Disclosure of personal information confirmation form

Disclosure of Personal Information Confirmation Form				
Reporter	Name		Resident registration no.	
	Address			
	Contact no.			
Report	Subject			
	Date		Registration no.	
Disclosure of identity	<p>1. Examination by examination organizations The report on violation of public interest that you have made may be examined and identified by examination organizations. Do you agree to disclose or imply your personal information during such processes? ⇒ [<input type="checkbox"/>] Agree [<input type="checkbox"/>] Disagree</p> <p>2. Investigation by investigative organizations The report on violation of the public interest that you have made may be scrutinized by investigative organizations or forwarded to the prosecution, and consequently investigated by investigative organizations. Do you agree to disclose or imply your personal information during such processes? ⇒ [<input type="checkbox"/>] Agree [<input type="checkbox"/>] Disagree</p>			
I hereby confirm on the disclosure of personal information as stated above.				
			Date:	
			Reporter:	[sign or seal]

(3) Effect of Public Interest Whistleblowing

A. General Effect

Public interest whistleblowing effectuates the launch of examination and investigation. Public interest whistleblowers, etc. can receive protection and reward as stipulated in the laws governing such as confidentiality, protective measures, physical protection, and reward and relief money.

B. Presumption of Disadvantageous Measures and Transfer of Burden of Proof

If any disadvantage occurs against public interest whistleblowers, etc. within two years after reporting according to the applicable laws, the disadvantage is presumed to be a result of the public interest whistleblowing. In accordance with this, and to improve the effectiveness of the system, the burden of proof that the disadvantage did not result from public interest whistleblowing is transferred to those who have taken such disadvantageous measures.

Presumption of disadvantageous measures (Article 23)

1. If there is an attempt to identify any public interest whistleblower, etc., obstruct public interest whistleblowing, or force the rescinding of a whistleblowing report
2. If a disadvantageous measure is taken against public interest whistleblowers, etc. within two years after reporting
3. If a disadvantageous measure is taken even after the ACRC recommended against taking such a measure to those who expressed intention to do so

C. Mitigation of Culpability

Culpability of those who have taken part in violating public interest as a result of orders from another employee in a position of authority, or for economic benefit, but who choose to report in order to rectify their wrongdoing, may be mitigated.

If a criminal act related to the public interest whistleblower was disclosed as a result of public interest whistleblowing, punishment can also be legally mitigated or exempted. The revised Act enacted in January 2016 expanded the scope of mitigation to include not only criminal punishment and disciplinary action, but also other kinds of disadvantageous

administrative measures such as imposition of penalty surcharges or administrative fines.

Culpability will be mitigated despite the fact that public interest whistleblowers have taken part in violating public interest. This provision is included in light of the consideration that such whistleblowers may have participated involuntarily as a result of orders from those in positions of authority, and because undetected violations of public interest may be disclosed thanks to such autonomous whistleblowing. Autonomous reporting can therefore be more effectively promoted as a means to rectifying violations of public interest.

D. Exclusion from Obligation of Professional Confidentiality

In cases where the reported content contains work-related confidential information, if the report is made according to the law, it is deemed that whistleblowing does not breach any obligation of confidentiality stated in other laws, collective agreements, or employment regulations. In addition, any collective, employment, or supply agreement that bans or limits public interest whistleblowing will be invalidated.

E. Prohibition of Claim for Damages

Even if a subject of whistleblowing experiences damages due to public interest whistleblowing, the subject cannot demand compensation from public interest whistleblowers, etc. False reports or reports with unfair intentions, however, are not considered public interest whistleblowing; therefore, the subject of whistleblowing may demand compensation to public interest whistleblowers, etc. in such cases.

(4) Cases That Are Not Considered Public Interest Whistleblowing

A. Reporting Anonymously or under an Assumed Name

Any report that has been made anonymously without the personal information of the whistleblower or made under an assumed name will not be considered public interest whistleblowing. Even if a report was made anonymously or under an assumed name, disclosing a whistleblower's identity or notifying the subject of whistleblowing about the report is prohibited.

B. False Reports or Reports with Unfair Intentions

Any report that has been made by a public interest whistleblower despite knowledge, or access to knowledge, that the content is clearly false, or reports that have been made

with unfair intentions, such as to request money, valuables, or special favors in a work relationship, will not be considered valid cases of public interest whistleblowing.

☆ Q&A

1. How can I report violations of public interest?

Those who intend to report violations of public interest must submit written reporting forms that include ① the whistleblower's personal information, including name, resident registration number, address, and contact number, ② the name of the person who has violated public interest, ③ a factual description of the concerned violation of public interest, and ④ the purpose or reason for the public interest whistleblowing report. These reporting forms, as well as evidence of the violation of public interest, must be submitted to a valid public interest whistleblowing agency. If there is a specific reason that written documents cannot be submitted, reports can be made orally. In such cases, those receiving a whistleblower's oral report must record all information as told by the whistleblower onto a reporting form, read the information back to the whistleblower, and have the whistleblower sign or place a seal on the form.

2. Is it necessary to use the official reporting form?

Public interest whistleblowing reports can be submitted regardless of the type of form used. The ACRC receives public interest whistleblowing reports according to the standardized form, but other agencies, such as examination organizations, accept reports regardless of the form or name of document, as long as they include ① the whistleblower's personal information, including name, resident registration number, address, and contact number, ② the name of the person who has violated public interest, ③ a factual description of the concerned violation of public interest, and ④ the purpose or reason for the public interest whistleblowing report.

It is difficult to deem telephone inquiries or counseling as valid public interest whistleblowing, excepting cases of oral reporting permitted limitedly due to inevitable reasons.

3. Is it necessary to reach an agreement on the disclosure of personal information upon the submission of public interest whistleblowing forms?

It is required to confirm and state whether a public interest whistleblower agrees to disclose personal information. If personal information is provided to others, disclosed,

or reported without consent, disclosers may face imprisonment for not more than three years or a fine of up to KRW 30 million, according to Article 30.1 and Article 12.1 of the Act.

4. Can public interest whistleblowing agencies refuse to receive public interest whistleblowing reports?

Public interest whistleblowing agencies are not allowed to refuse lawful public interest whistleblowing reports. The agencies, however, may refuse false whistleblowing reported even though the whistleblower knew or could have known that the content was not true, as well as whistleblowing made with an unfair intention, such as the request of money, valuables, or special favors in a work relationship, according to Article 2.2 of the Act.

5. What should be done if it is unclear whether the whistleblowing content has violated public interest?

Public interest whistleblowing agencies check several issues when receiving a report in order to: ① confirm that the concerned infraction has violated any of the 279 laws concerning violation of public interest, ② check that the infraction is subject to punishment or administrative measure and that there are sanctions against such a violation, and ③ ascertain whether the infraction infringes on public health, public safety, the environment, consumer interest, or fair competition. If it is unclear at the time of receipt of a whistleblower's report whether or not public interest has been violated, it is prudent to receive and handle the report as public interest whistleblowing in order to protect the whistleblower. The agencies must guide public interest whistleblowers to report in adherence to the reporting method and confirm and explain the agreement on the disclosure of personal information.

If, however, a reported case is clearly not a violation of public interest, such as a report of unkind service by public officials or a desired institutional improvement, it is appropriate to receive the case as a general complaint, not as public interest whistleblowing.

6. Can public interest whistleblowing agencies receive reports from public interest whistleblowers using aliases?

The public interest whistleblowing system must confirm whistleblowing content with whistleblowers, take preventative measures, protect whistleblowers, and provide rewards. For these reasons, the submission of a real name is a prerequisite for the

filing of a report. Article 8 of the Act stipulates that public interest whistleblowing must be made through the submission of a written report that includes personal information of the whistleblower and a description of the violation of public interest, together with evidence of the violation of public interest. It is feared that if indiscreet whistleblowing by anonymous letter were allowed, trade secrets, credit, and privacy may be compromised, thereby causing unrecoverable loss. In consideration of this, public interest whistleblowing agencies, including examination organizations, must inform whistleblowers of reporting methods in detail, and written reports submitted or mailed without names must not be considered as public interest whistleblowing.

Some agencies receive anonymous whistleblowing reports to collect information about violations of public interest in a variety of ways. In such cases, the agencies must explain to reporters that if personal information is disclosed or they face any disadvantage, they cannot be protected as public interest whistleblowers. The agencies must let reporters choose whether to report anonymously without protection and provision of potential reward as stated in the Act on the Protection of Public Interest Whistleblowers.

7. Can a lawyer report as proxy?

Lawyers may report upon receipt of a request from a public interest whistleblower. The ACRC states that lawyers may report cases on a client's behalf while disclosing the identity of the whistleblower in question, according to an established regulation. If a report was made under a lawyer's name without disclosing the actual public interest whistleblower, the lawyer will be identified as the public interest whistleblower, thus receiving protection and reward under the Act instead of the actual whistleblower.

8. Can I report via telephone?

Public interest whistleblowing cannot be made via telephone. Article 8 of the Act states that public interest whistleblowing must be made through the submission of written reports and evidence of the violation of public interest. It would be difficult to identify personal information of the public interest whistleblower over the phone or to receive evidence; therefore, agencies must explain these difficulties to whistleblowers and guide them in submitting a written report.

9. What is the specific meaning of 'reporting with unfair intentions'?

When reports are said to have been made with unfair intentions, therefore losing eligibility for consideration as public interest whistleblowing, it is meant that the report

was motivated by a desire to request money, valuables, or special favors—a promotion, for example—from a work relationship. It would be imprudent, however, to judge intentions based on circumstances at the time of receipt. It is necessary to closely review all factors related to the case, such as any evidence of the request for money or valuables, in detail. In this regard, some cases, such as public interest whistleblowing reports made by labor union members after a failure of collective bargaining, or those made with the intention to receive a reward, may not be considered as having been made with unfair intentions for those reasons alone.

10. How should public interest whistleblowing be handled if evidence was collected illegally?

Illegal measures taken during the collection of evidence must be identified during the examination and investigation of public interest whistleblowing reports. Once a public interest whistleblower's report is received, it must be processed, unless it is clearly false or has been made with unfair intentions.

11. Is it possible to examine only by specified description, without the submission of evidence?

When making a public interest whistleblowing report, evidence of the concerned violation of public interest must be submitted. The ACRC can request the submission of necessary data to clarify the content of the report and close a case if there is no evidence. If, however, it is judged that the description itself has a high level of credibility, examination and investigative organizations may jointly investigate to identify any violation.

12. Can a whistleblower report a violation that occurred in a corporation years in the past?

A specific period has not been established for the validity of public interest whistleblowing reports; therefore, violations which occurred in previous years can still be reported; however, cases whose statute of limitations has expired or whose fine-imposing exclusion period has lapsed can be closed.

3. Examination and Handling of Public Interest Whistleblowing

(1) Overview

The examination and handling process concerning public interest whistleblowing may differ depending on the organization holding authority over the examination of the concerned violation of public interest.

① If a public interest whistleblowing report is received by an examination organization (administrative, supervisory, or public organizations) or investigative organization holding authority of examination, or is sent to such an organization by the ACRC, it is necessary to examine and investigate according to the examination and investigation methods defined by related laws, and to take necessary measures depending on the findings. If an examination or investigative organization receives a public interest whistleblowing report that is not under its jurisdiction and that was not sent by the ACRC, it must forward the report or notify the proper examination organization and inform the reporter.

② If a public interest whistleblowing report was received by a public organization or a National Assembly member not holding authority of examination, it is necessary to identify the content of the whistleblowing report and any relevant laws, forward the report to a proper examination or investigative organization or the ACRC, and inform the reporter of the authority to which their report was forwarded.

(2) Examination and Investigation of Public Interest Whistleblowing (Examination and Investigative Organizations)

A. Investigation and Handling of Public Interest Whistleblowing

If the content of a public interest whistleblowing report is subject to an examination organization's direction, supervision, regulation, or investigation according to relevant laws, or as the result of being entrusted, that examination organization must directly investigate.

The investigative methods, process, and handling period of public interest whistleblowing cases are stipulated by individual laws, and necessary measures must be taken based on the results of the examination.

Examination organizations may decline to launch or may discontinue an examination if a reported case is deemed to be clearly false, as stipulated in Article 10.2 of the Act.

Reasons for discontinuation of an examination (Article 10.2 of the Act)

- If the content of a public interest whistleblowing report is deemed to be clearly false
- If personal information of the public interest whistleblower is not available
- If the public interest whistleblower fails to supplement a written report or evidence within a given period after receiving at least two requests to do so
- If a public interest whistleblower again reports, without any justifiable reason, a case for which they have already been notified of the result
- If the content of a public interest whistleblowing report is publicized through mass media and there is no new evidence other than facts which have already been disclosed
- If an examination of a violation of public interest has already begun or been completed according to other laws
- If the content of a public interest whistleblowing report is not related to a violation of public interest
- If there is no evidence to prove a violation of public interest
- If it is prescribed by other laws to not launch an examination

If a case of public interest whistleblowing is publicized through mass media based solely on the content from the whistleblower's original report, an examination may continue.

Related cases

- May 16th, 2013. Seoul Administrative Court 2012 - 32532
 - If content originating from a whistleblower's report is publicized through mass media, for the sake of the protection of the whistleblower, it cannot be deemed prudent to differentiate that whistleblower from others who have reported first to agencies and then to the media. For this reason, even if a case is subject to Article 18.2 or Article 10.2.5 of the Act, a request for protection should not be rejected, and protective measures may be taken.

When an examination organization, according to the result of an examination, takes necessary measures or discontinues an examination of a public interest whistleblowing report which has been received directly, it must inform the public interest whistleblower of the result.

In the case of an examination of public interest whistleblowing forwarded by the ACRC, the examination organization must inform the ACRC of the result within ten days after completing the examination by submitting the documents below:

Content to be included in notification form to the ACRC (Article 11.3 of the Decree)

1. Result, judgment, and reason for handling public interest whistleblowing, such as criminal and administrative actions
2. Direction after closure of examination and investigation
3. Facts, if any, that are subject to reward and relief money
4. Other facts that the ACRC or public interest whistleblowers must know regarding a public interest whistleblowing report

B. Investigation of Public Interest Whistleblowing

Investigative organizations must investigate received public interest whistleblowing reports according to the method, process, and handling period defined by the Criminal Procedure Act and other relevant laws, and must take necessary measures—such as bringing charges, committing for trial, and prosecuting—following the result.

Processes occurring during investigation, including seizures, searches, and the questioning, emergency arrest without warrant, and arrest of suspects, must follow the Criminal Procedure Act.

If an investigative organization completes the investigation of a public interest whistleblowing report that has been received directly, the ACRC must be notified of the result. In the case of the investigation of a report which was forwarded by the ACRC, the ACRC must be notified of the result within ten days from the completion of investigation. If the ACRC requires data concerning the handling of a forwarded public interest whistleblowing case, that data must be provided to the Commission unless there is any special reason not to do so.

C. Application of the Act on Protection of Specific Crime Informants, etc.

If there is a significant reason to judge that public interest whistleblowers, etc., their relatives, or other persons living with them are experiencing or are likely to experience damage due to public interest whistleblowing, the Act on Protection of Specific Crime Informants, etc. may be applied to examination and criminal cases undertaken by examination and investigative organizations.

Public interest whistleblowers, etc. or their legal representatives may request

examination and investigative organizations to apply the Act on Protection of Specific Crime Informants, etc. The examination and investigative organizations that have received such a request must acquiesce, unless there is any special reason not to.

Application of the Act on Protection of Specific Crime Informants, etc. (Article 11. 1 of the Act)

Article 7 (Omission of personal information)

If any retaliatory action is likely to be taken against informants or their relatives, prosecutors or judicial police officers shall omit all or parts of the information that might be used to identify the informant such as name, age, address, or occupation.

Article 9 (Inspection of identity management card)

If the court or an attorney requests to inspect the identity management card, prosecutors shall not allow inspection if any retaliation is likely to be taken against informants or their relatives.

Article 10 (Recording of video)

A judge may video record examinations of informants, and the statements included in the videos may be used as evidence.

Article 11 (Special Provisions on Summons or Examination of Witnesses)

If summoned witnesses or their relatives are likely to be retaliated against, defendants or spectators may leave the court, or examination may be conducted in a location other than an open court.

Article 12 (Consultations on Progression of Litigation)

If any retaliation is likely to be taken against informants or their relatives, the court may consult with prosecutors or attorneys on a trial date of relevant accused or other matters necessary for the progression of litigation.

Omission of Personal Information

When recording written evidence or other documents during examination and investigative processes, all or parts of personal information that may disclose the identity of public interest whistleblowers, etc., such as name, age, address, and occupation, may not be recorded.

If personal information is not recorded, public interest whistleblowers, etc. must sign written evidence or other documents using a pseudonym, and the documents must be sealed with a thumb. In this case, the pseudonym holds the same authority as that of a real name.

General and special judicial police officials, including those in charge at examination organizations holding the status or authority as special judicial police officials, must file an immediate report to prosecutors at the concerned district public prosecutors' office when personal information is not recorded due to the application of the Act on Protection of Specific Crime Informants, etc.

Recording and Management of Identity Management Cards

If personal information is not recorded in written evidence during examination and investigation processes at examination and investigative organizations as explained earlier, the omitted personal information must be recorded and managed using an identity management card.

The identity management card must include data that allows for the identification of public interest whistleblowers, etc., such as name, resident registration number, address, and occupation. Public interest whistleblowers, etc. must sign both their real name and any pseudonyms used, and the card must be sealed with a thumb.

Identity management cards written during examination at examination organizations must be held by the head of the organization and may not be perused by other employees. If the official in charge at an examination organization holds status or authority as a special judicial police official, or if identity management cards were written during investigation at investigative organizations, the identity management cards must be managed by prosecutors at the concerned district public prosecutors' office.

Example: Identity management card and written evidence

Identity Management Card (example)			
Management no.	2012 Identity management no. 1		
Incident no.	2012 Public interest whistleblowing no. 1		
Court incident no.			
Whistleblowing subject	Park Chim-hae	Prosecutor	Lee Geom-chal
Personal information of whistleblower	Name	Kim Gong-ik	Pseudonym Hong Gil-dong
	Resident registration no.	710930-1234567	Occupation Manager, Hwangyeong Chimhae Corporation
	Location		Phone no. 010-123-4567
	Address	87 Gongik-ro, Seodaemun-gu, Seoul	
	Signature	Name	Status
Pseudonym			
Reason of recording	Request of public interest whistleblower, Authority by investigators (the judicial police)		
Initial recording date	Sep 30, 2011	Initial recorder	Lee Jo-sa (sign or seal)
Identity management card receiving date	Sep 30, 2011	Closure of incident decision date	

Confirmation Decree (example)						
Name	Hong Gil-dong		Resident registration no.	N/A		
Address	N/A					
Occupation (Employer)	N/A					
Phone no.	Mobile	N/A	Work	N/A	Home	N/A
<p>The above identified person is a reporter of "suspicion of illegal release of water pollutants" (Registration no. 2011 Public interest whistleblowing no.1) and has testified at the investigation room of the Public Interest Whistleblowing Inspection & Policy Division at 14:00 on September 30th, 2011 as detailed below: 4.3.</p>						

D. Reexamination, Reinvestigation and Other Follow-up Measures

The amended Act effective as of January 2016 provides the ACRC with an institutional tool for following up on the results of examinations and investigations into cases that were referred by the Commission. It is aimed at ensuring that violations of the public interest are thoroughly examined or investigated as well as at more effectively helping prevent such violations.

The ACRC may submit opinions regarding the results of examinations into cases of public interest violation that have been referred by the Commission if any of the measures described in the following subparagraphs is deemed necessary for preventing violations from repeating or spreading:

Follow-up measures (Article 9.5 of the Act)

- Discontinuation of production or sales, recall, destruction, etc. of a product
- Business suspension, license suspension, etc.
- Other measures required to eliminate and prevent violations of the public interest

Related cases (examples)

- An ecolabeling agency was reported to have falsely certified inferior agricultural products as eco-friendly. The ACRC was notified and the agency was suspended from business, but the Commission had neither legal grounds nor applicable procedures to suggest opinions on follow-up measures such as recalling products or eradicating the environmental certification.
- An investigative agency received a case from the ACRC in which a food producer was ordered to suspend the production of boiled pork slices, but secretly continued to produce and sell the products. The investigative agency suspended the food producer from business but applied no specific actions regarding products which has already been sold.

The amended Act guarantees whistleblowers the right of appeal so that they can file objections to the examination and investigation results of their cases, which were reported to the ACRC and then referred to examination or investigative agencies. In addition, the Act enables the ACRC to request reexamination or reinvestigation from the relevant agencies. If the Commission considers examination or investigation to have been inadequately conducted, or if the whistleblower's objection is deemed reasonable, the

ACRC may ask the relevant agency for reexamination or reinvestigation. The examination or investigative agency should notify the Commission of the results of the reexamination or reinvestigation.

Grounds for reexamination or reinvestigation

- In the event that the whistleblower's objection to the original result is deemed reasonable;
- In the event that a new piece of evidence is submitted, which justifies reexamination or reinvestigation;
- If the investigative agency made factual errors during the examination or investigation process;
- In the event that a person in charge of the case in the investigative agency is found to have neglected the examination or investigation; and/or
- In other events where the ACRC admits the necessity of reexamination or reinvestigation

(3) Transfer or Re-referral of a Violation of the Public Interest Case

A. Transfer of a Case of Whistleblowing on a Violation of the Public Interest

Should an investigative or examination agency receive a first hand report of a violation of the public interest that does not fall under its jurisdiction, it is required to examine the details of the report and related laws, transfer the case to a competent examination or investigative agency and notify the whistleblower of the transfer.

(Example) Transfer of a public interest whistleblowing case

1. Construction worker A was working as a daily laborer for an apartment complex construction project carried out by Construction Company $\Delta\Delta$. He submitted a public interest whistleblowing report to the $\circ\circ$ Regional Office of Construction Management, stating that the Construction Company $\Delta\Delta$ ordered workers to work without installing proper safety railings and implementing other necessary safety measures.
2. The $\circ\circ$ Regional Office of Construction Management examined the details of the report and relevant laws, and confirmed that the case violated the Occupational Safety and Health Act and constituted a violation of the public interest. The Office also found that the case was under the jurisdiction of the $\diamond\diamond$ Regional Ministry of Employment and Labor.
3. The $\circ\circ$ Regional Office of Construction Management transferred the case to the $\diamond\diamond$ Regional Ministry of Employment and Labor, and notified the whistleblower of the transfer.

During the transfer process, the public interest whistleblower's personal information should not be exposed to other examination or investigative agencies without the whistleblower's consent. If a non-competent entity transfers a case to another agency without the personal information of the whistleblower, the receiving agency may find it difficult to proceed with the investigation because it will have difficulty contacting the whistleblower. This is contradictory to the purpose of the Act, which is to properly deal with each whistleblowing case in a timely manner and prevent violations of the public interest. It is therefore desirable that the personal information is transferred concurrently after obtaining the whistleblower's consent.

Relevant clauses (Article 13 of the Enforcement Decree)

- A representative, etc.; the Commission; an examination agency, etc.; and a member of the National Assembly, etc. shall offer necessary measures to ensure that the identity of the public interest whistleblower, etc. is not disclosed without the whistleblower's consent in the processes of receiving, referring, forwarding, examining and investigating the public interest whistleblowing case.

B. Re-referral of a Whistleblowing Case on a Violation of the Public Interest

If an examination or investigative agency to which a whistleblowing case has been referred by the ACRC determines that another examination or investigative agency is more appropriate to take up the case, it can re-refer the case to another agency in consultation with the ACRC.

(4) Forwarding of a Whistleblowing Case (by public institutions or National Assembly members)

A. Determining Where to Forward the Case

A public institution or National Assembly member who has received a report on a violation of the public interest should examine the case and related laws to select an institution-either an examination agency, investigative agency or the ACRC-to which it will forward the case.

Determination of where to forward the case

1. First, confirm if the violation of the public interest is in contravention of any of the predetermined 279 Acts.
2. If the violation falls under any of the 279 Acts, the receiver should determine whether the sanction against the violation is subject to penal provisions or administrative actions.
3. Depending on the type of sanction, select where to forward the case from among the following institutions:
 - Examination agency: Cases that are subject to penalty surcharges, business suspension and other administrative actions
 - Investigative agency: Cases that are subject to imprisonment, fines and other penal sanctions
 - The ACRC: All kinds of public interest whistleblowing cases regardless of the type of sanction

B. Forwarding of a Whistleblowing Case and the Notification of Where to Forward

A public institution or National Assembly member should forward a public interest whistleblowing case to an appropriate institution and notify the whistleblower of the institution to which the case was forwarded.

C. Forwarding of a Confidential Case

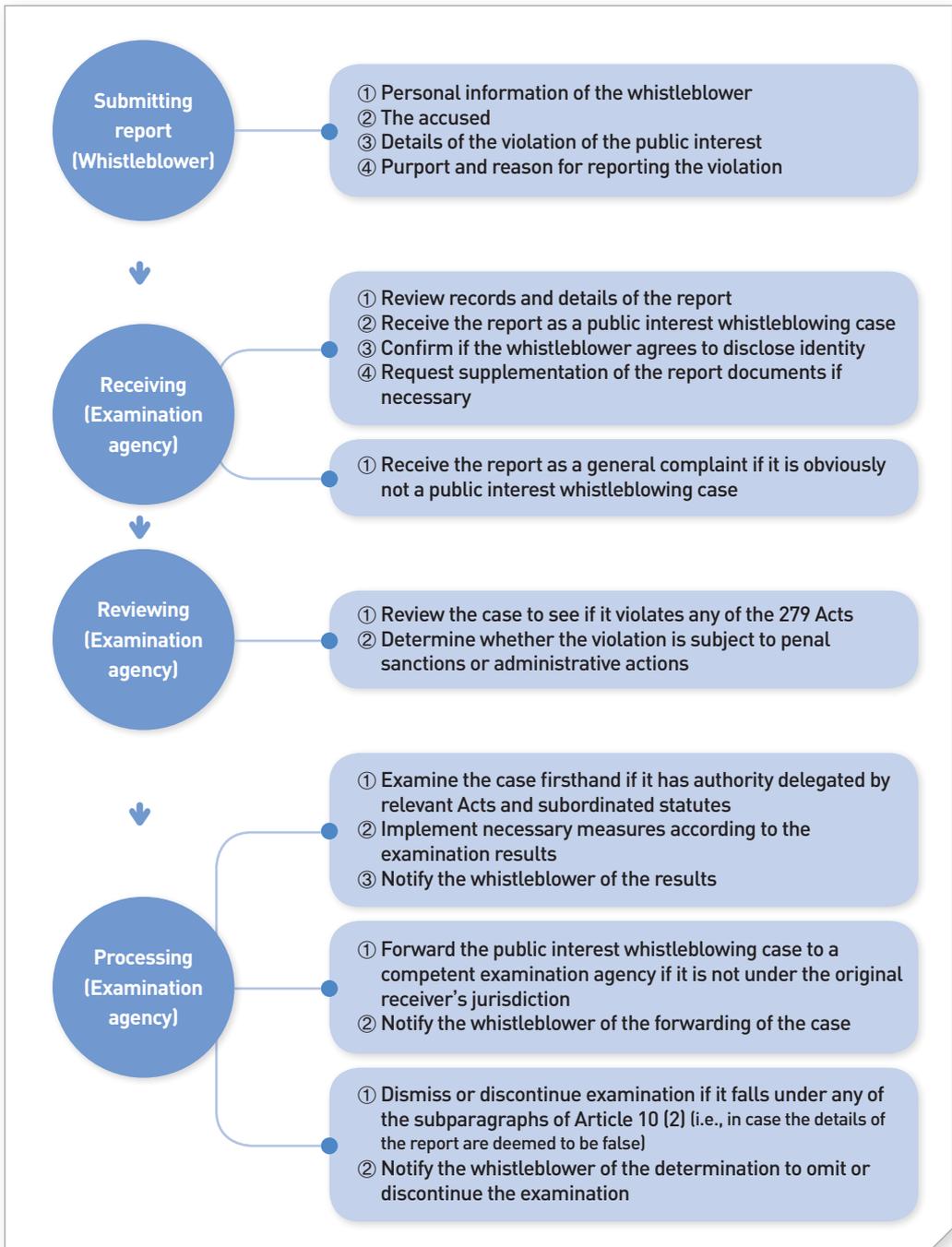
If a public interest whistleblower does not consent to the disclosure of his/her identity in forwarding the case, the receiver of the case report should make and send an anonymized copy of the report documents by deleting from the documents any personal data and other information that may indicate the identity of the whistleblower.

To adequately protect the whistleblower, information to be anonymized includes not only direct and explicit personal information, but also the name of the company or business the whistleblower is engaged in, the residential area and other specific details that could identify the whistleblower.

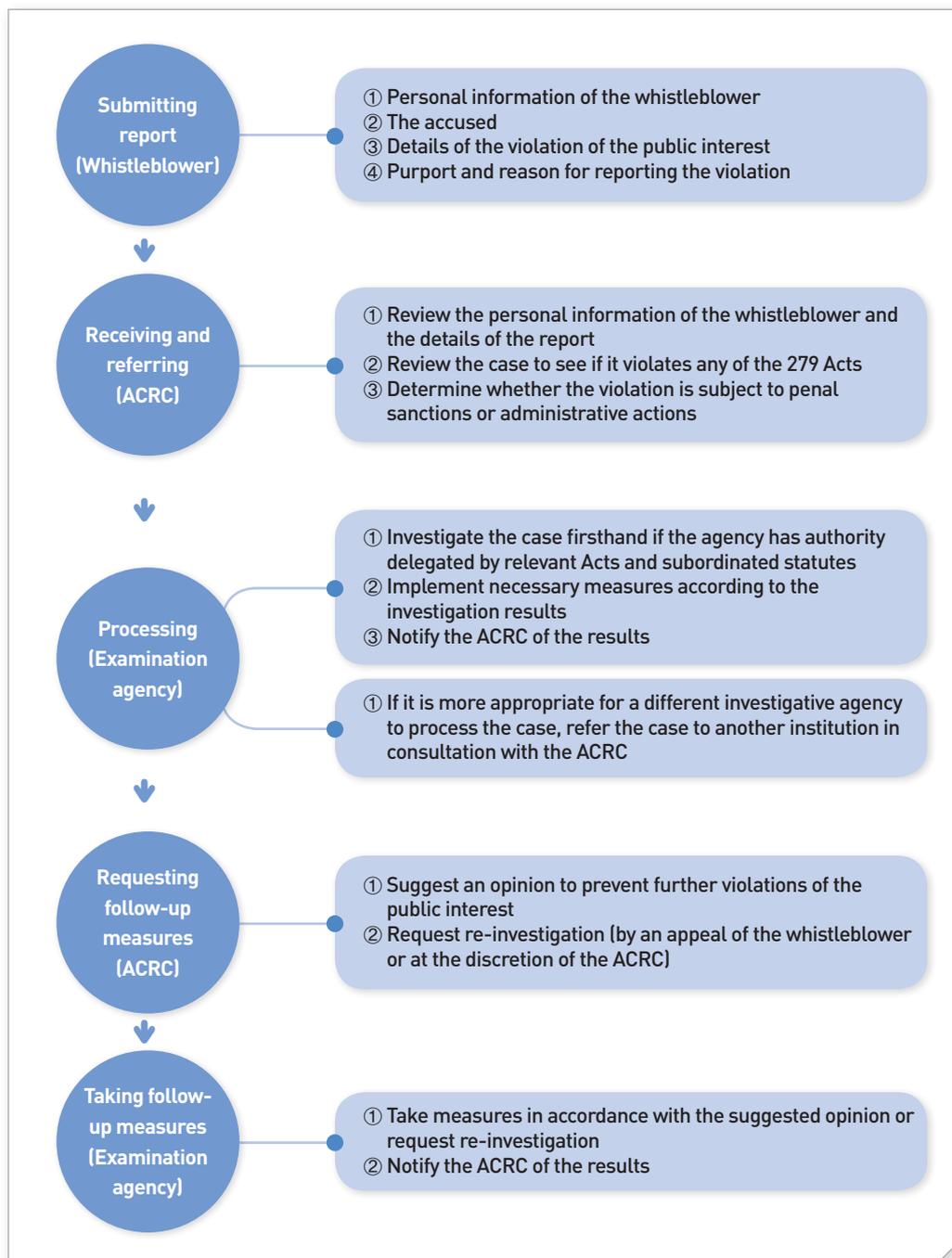
Things to consider when forwarding anonymized cases

1. Name and other personal data must be anonymized on the report form
2. In the purport and reason, and outline sections, information from which the identity of the whistleblower could be inferred should be anonymized, including occupation, company and business.

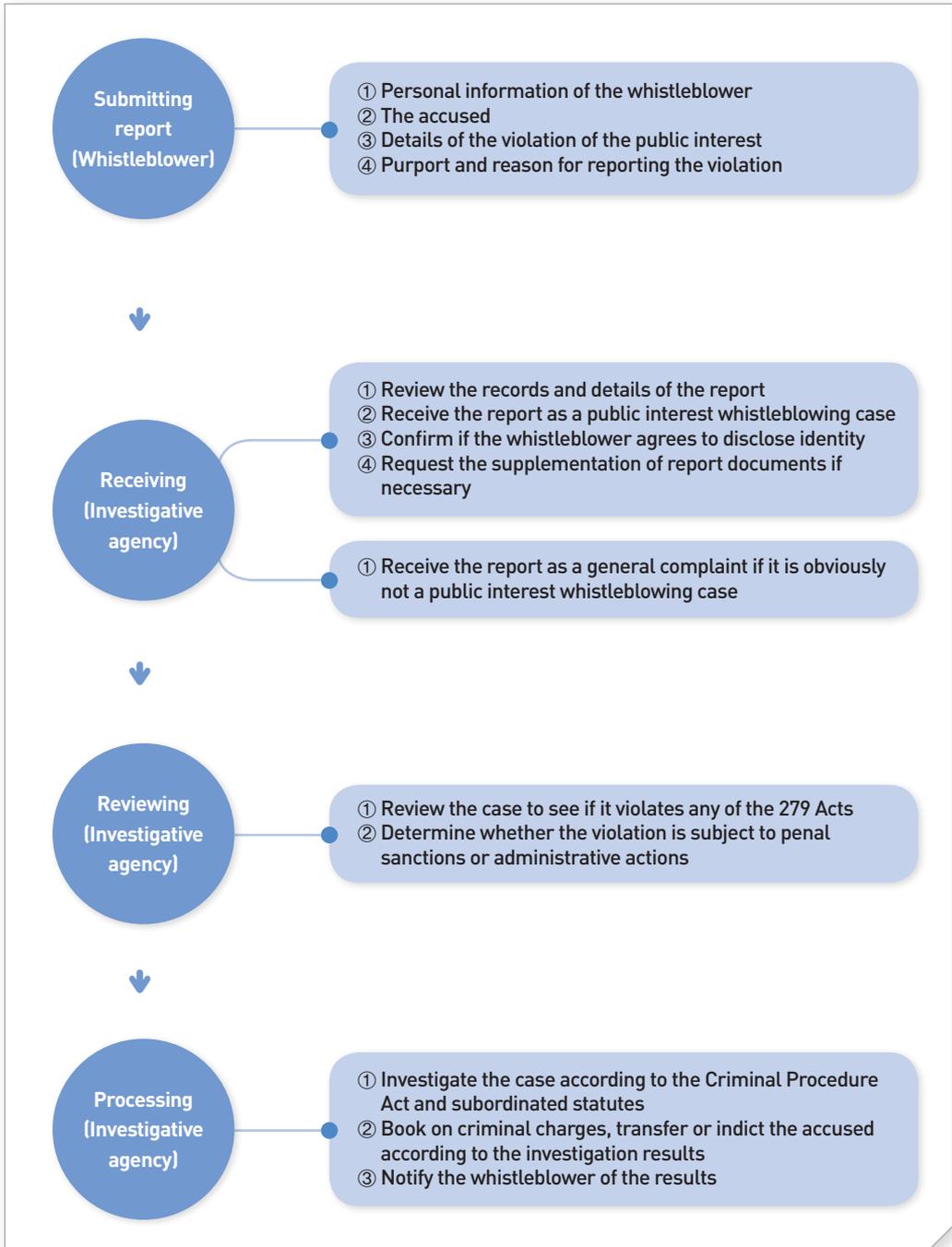
★ Flow Chart of Receiving and Processing Public Interest Whistleblowing Cases for Examination Agencies



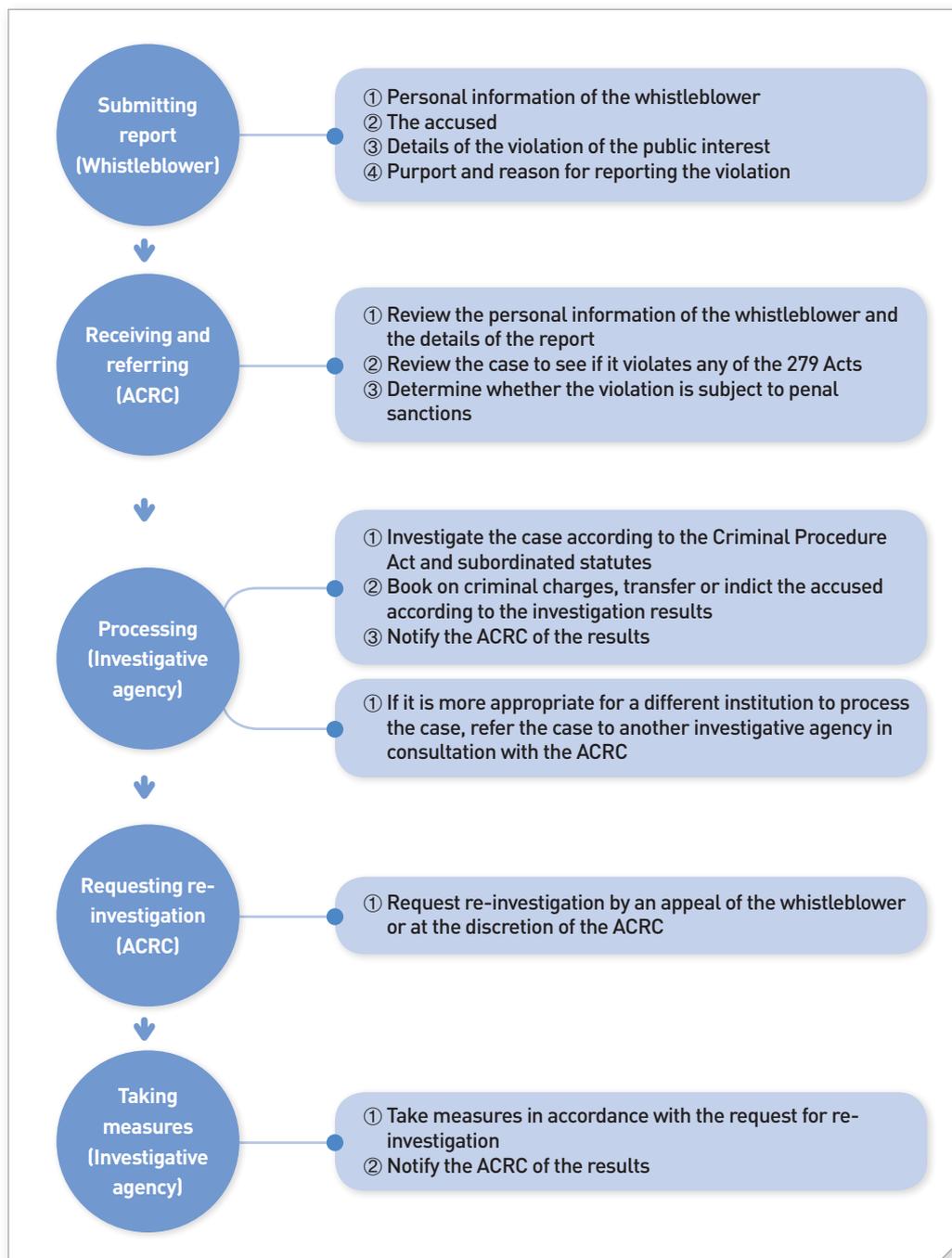
★ Flow Chart of Referring and Processing Public Interest Whistleblowing Cases for Examination Agencies



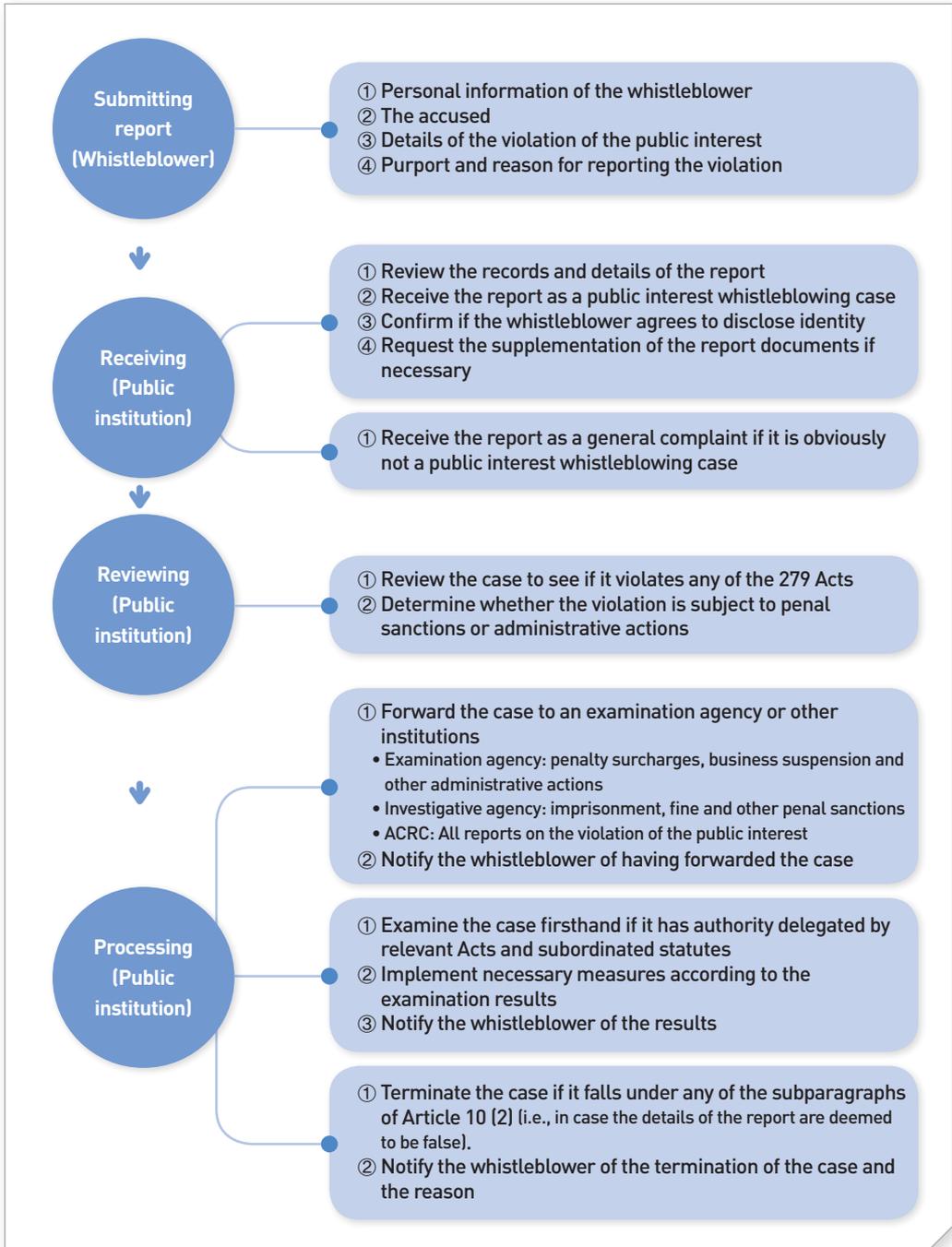
★ Flow Chart of Receiving and Processing Public Interest Whistleblowing Cases for Investigative Agencies



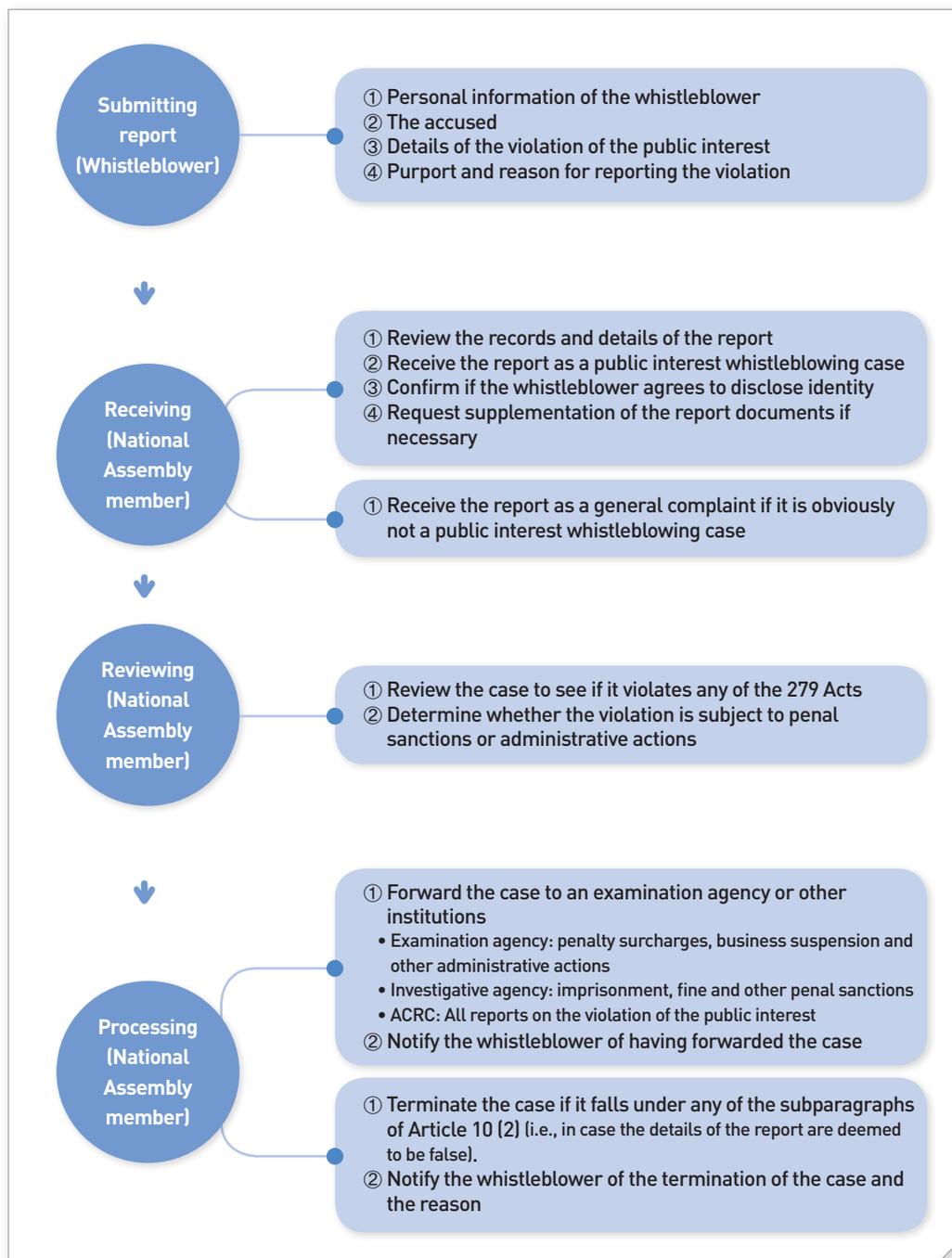
★ Flow Chart of Referring and Processing Public Interest Whistleblowing Cases for Investigative Agencies



★ Flow Chart of Receiving and Processing Public Interest Whistleblowing Cases for Public Institutions



★ Flow Chart of Receiving and Processing Public Interest Whistleblowing Cases for National Assembly Members



☆ Q&As

1. How can a report of a public interest violation received from a whistleblower be processed?

An examination agency which has received a report on a violation of the public interest should review the details of the report and the related laws. If the agency is found to have authority to guide, supervise, regulate or examine the case, it should perform the necessary examination. When the examination is complete, it should take the required steps in accordance with the conclusion, and notify the whistleblower of the results.

An investigation agency which has received a report on a violation of the public interest should review the contents of the report and the relevant laws and decide whether to initiate investigation in consideration of its jurisdiction and mandate. Once the investigation is concluded, it should notify the whistleblower of the results.

2. How can a public interest whistleblowing case out of its jurisdiction be processed?

If the examination agency or investigative agency, upon receipt of a public interest report, examines the details of the report and the relevant laws and concludes that the reported case is not under its jurisdiction and mandate, it should forward the case to a competent examination agency or investigative agency and notify the whistleblower of the fact.

3. Should I examine every report that I receive?

Not necessarily. If the report on a violation of the public interest is obviously false, or it falls under any of the subparagraphs of Article 10 (2) of the Act, an examination may not be conducted or be terminated. In such cases, however, the whistleblower should be informed of the fact that an examination was not conducted or was terminated, with the reason thereof.

4. Do I need to initiate an examination even if some statements in the report form or evidentiary documents need to be supplemented?

Not necessarily. Article 8 of the Act stipulates that a public interest whistleblowing case is filed by the submission of a written report including the personal information of the whistleblower, the person who has allegedly violated the public interest, a factual description of the violation, and the purport and reason for whistleblowing as well as

evidentiary materials proving the violation. For example, if the written report lacks personal information, or the details of the violation are not specified, the public interest whistleblower will be required to supplement the documents within a reasonable period set by the institution handling the case. If the public interest whistleblower fails to supplement the report or evidentiary materials within a preset period after receiving at least two requests to do so, the examination may not be conducted or be terminated pursuant to subparagraph 3 of Article 10 (2) of the Act and subparagraph 3 of Article 5 of the Enforcement Decree of the Act.

5. Should a public interest whistleblower, etc. ask for omission of personal information or other measures, must these requests be complied with?

Yes. Article 11 of the Act stipulates that if a public interest whistleblower, etc. or his/her legal representative requests the examination agency or investigative agency to apply *mutatis mutandis* Article 7 (Omission, etc. of Written Personal Information) and related provisions of the Act on Protection of Specific Crime Informants, etc., the examination agency or investigative agency should comply with the request unless there are exceptional grounds not to do so.

As such, those in charge of public interest whistleblowing cases at examination or investigative agencies, upon receiving such a request, should omit all or part of the personal information of the whistleblower—including name, age, address, occupation, or other information that could possibly indicate that whistleblower’s identity—when preparing dossiers or other documents, unless there are special reasons not to do so. If the personal information of the whistleblower is not recorded on the report, it should instead be recorded on an identity management card.

A decorative graphic consisting of a grid of small, light blue squares that tapers from left to right, creating a sense of depth and movement. The squares are arranged in a pattern that suggests a digital or data-driven theme.

Chapter 3

How Can a Whistleblower Be Protected?

1. Overview
2. Guarantee of Confidentiality
3. Personal Safety
4. Protective Measures

Chapter 3.

How Can a Whistleblower Be Protected?

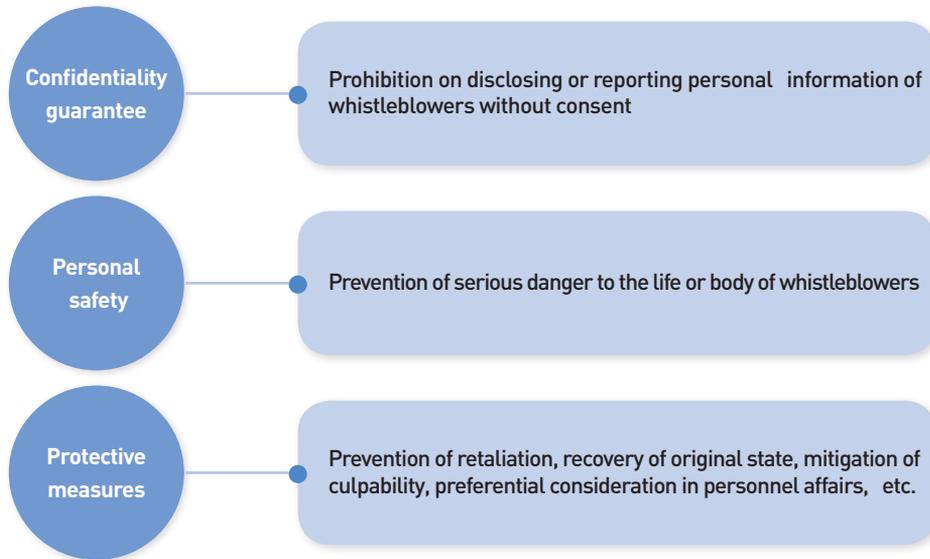
1. Overview

As the violations of the public interest in the private sector have become more secretive and sophisticated, a whistleblower's information is crucial to prevent and eliminate such violations. Official supervisory or investigative agencies alone often have trouble detecting and correcting the violations of the public interest because they have limited access to concrete evidence of the wrongdoings unless insiders, who are aware of internal problems in businesses and other organizations, provide information. For this reason, a consensus has been formed that whistleblowers for the public interest should be appropriately protected, and this resulted in the establishment of institutional measures to protect public interest whistleblowers.

Moreover, public interest whistleblowers often find themselves in a difficult situation where they alone can not overcome subsequent retaliation and social prejudice. They are often blamed as traitors of the organization or dismissed as having failed to adapt to the organization. Institutional devices are needed to protect whistleblowers in order to construct a social atmosphere where people see whistleblowers for the public interest as those of courageous conscience.

The system for protecting public interest whistleblowers was invented to encourage whistleblowing for the public interest and to protect whistleblowers. It consists of three main categories: the confidentiality guarantee, personal safety and protective measures.

This Act is the first line of defense in relation to the protection of whistleblowers, but if any other law proves more advantageous, that law will prevail so that the whistleblower receives the most comprehensive protection.



The amended Act, which went into effect in January 2016, introduced joint penal provisions for the violation of whistleblower protection clauses. If a representative of a corporation, or any agent, employee or other person employed by a corporation or individual breaches confidentiality obligations, retaliates against a whistleblower, fails to perform protective measures decided upon by the ACRC, or violates any of the clauses for protecting public interest whistleblowers, the employing corporation or individual, as a business entity, is jointly punishable along with the actual offender. However, if the employing corporation or individual has fulfilled supervisory obligations and has given due attention toward the prevention of such violations, they are exempted from punishment in compliance with the principle of liability. The adoption of the joint penal provision is aimed at ensuring that corporations fulfill their supervisory responsibilities and act in line with recommendations of the United Nations Convention Against Corruption (UNCAC) and the OECD Anti-Bribery Convention.

2. Guarantee of Confidentiality

(1) Prohibition on the Disclosure and Report of a Whistleblower's Personal Information

The guarantee of confidentiality is the first and most important step for the protection of whistleblowers. If the identity of the informer is not revealed, ensuing disadvantages related to the whistleblowing can be avoided.

Article 12 of the Act prohibits anyone from telling, disclosing or publicizing to any other people the personal information of public interest whistleblowers, etc. or other facts from which their identity may be inferred, without the consent of those individuals. In addition, Article 13 of the Enforcement Decree of the Act states that examination agencies (administrative and supervisory institutions) and all other public institutions to which whistleblowing reports are submitted are required to take necessary measures to ensure that the identities of public interest whistleblowers, etc. are not disclosed without consent during the receipt and processing of the case.

Any person who violates the prohibition against publicizing or reporting the personal information of whistleblowers is punishable by imprisonment of not more than three years or by a fine not exceeding KRW 30 million. In addition, if the ACRC becomes aware that the personal information of a whistleblower, etc. or any information that may reveal that individual's identity, has been disclosed or reported, the Commission may accuse the perpetrator or demand that a supervisor take necessary measures such as disciplinary actions.

Examples of breaching confidentiality

- Institution A received a report from a resident that Company OO discharged wastewater without permit. It immediately called the company and provided the telephone number of the resident, advising the company to make an underhand agreement with the informer. That informer was instead blackmailed by the owner of the company and suffered damages due to the disclosure of identity.
- Institution B received a whistleblowing report from a childcare worker at Daycare Center OO. An official from the institution, who was investigating the chief director of the daycare center, unintentionally exposed the whistleblower's personal information, which was written on the official's pocketbook. As a consequence, the director retaliated against the whistleblower.
- Organization C received a report that Company OO had illegally discarded waste materials and began an investigation into the matter. The telephone number of the whistleblower was

exposed when the investigator contacted the informer via the company's telephone.

- Organization D requested a police investigation into a case that it had received and processed with an anonymized informer. The police asked for the contact information of the informer and the organization provided it without the whistleblower's consent.
- Organization E processed a public interest whistleblowing case and took an administrative measure against the unlawful act of the accused. When the lawyer of the accused asked the organization for the personal information of the informer for the purpose of filing administrative litigation, an official in charge of the case gave the information to the lawyer without obtaining consent from the whistleblower.

(2) Mutatis Mutandis Application of the Act on Protection of Specific Crime Informants, etc.

If there exist justifiable reasons that public interest whistleblowers, their relatives, or cohabitants have suffered or could suffer damages because of the public interest whistleblowing, the Act on Protection of Specific Crime Informants, etc. will apply mutatis mutandis to the investigation and criminal procedures.

(3) Non-disclosure of the Personal Information of the Accused and Details of a Public Interest Whistleblowing Report

Employees and other personnel of an institution that has received a public interest whistleblowing report should not disclose the contents of the report, including the personal information of the accused, until an investigation into the case confirms that a violation of the public interest occurred. Any person who breaches this confidentiality obligation will be punished by imprisonment for not more than three years or by a fine not exceeding KRW 30 million. This is intended to protect businesses from being irreversibly damaged by, for example, the reckless disclosure of a fabricated report.

3. Personal Safety

(1) Request for Personal Protection Measures

A public interest whistleblower, his/her relatives or cohabitants may request the ACRC to take protective measures for their personal safety if they have faced or are likely to face serious danger to their lives or persons. The Commission may request the chief of the police station to provide necessary personal protection measures.

(2) Commencement and Termination of Personal Protection Measures

The chief of a police station who received a request for personal protection measures from the ACRC should take necessary measures as prescribed in Article 7 of the Enforcement Decree of the Act on Protection of Specific Crime Informants, etc. in consultation of the Commission, and should immediately notify the Commission of the fact. The chief of a police station may terminate the implementation of personal protective measures in consultation with the Commission if such measures are no more deemed necessary.

Personal Safety Measures (Article 7 of the Enforcement Decree for the Act on Protection of Specific Crime Informants, etc.)

- Providing shelter in a specific facility for a specific time;
- Assigning a bodyguard for a specific time;
- Accompanying an informant to and from the location where he/she testifies as a person for reference or a witness;
- Residential protection such as periodic patrol over the relevant person's dwelling places; and
- Any other measures deemed necessary for personal safety

Example

- A village resident made a public interest disclosure about the forest destruction and illegal construction by the village chief. The informant was threatened with abusive language and asked for personal protection measures.
- A family member of a whistleblower who made the public interest report of the illegal dumping of wastes was intimidated with abusive language and threats of assault from the accused. The whistleblower asked for personal protection measures.

4. Protective Measures

Protective measures are to prevent the public interest whistleblower, etc. from suffering retaliation or to recover his/her state of life from damages incurred due to the whistleblowing. Such measures include the prevention of disadvantageous measures, protective measures, mitigation and remission of culpability and preferred consideration in personnel actions.

(1) Prohibition of Disadvantageous Measures against Public Interest Whistleblowers

A. Prohibition of Disadvantageous Measures

Any person should not take economic or administrative disadvantages against a public interest whistleblower or cooperator, nor damage his/her social status on the ground that he/she reported, stated, or submitted materials in the investigation or litigation with regard to the reporting or protective measures for the whistleblower.

Types of disadvantageous measures (Article 2.6 of the Act)

1. Removal from office, release from office, dismissal or any other unfavorable personnel action equivalent to the loss of status at work;
2. Disciplinary action, suspension from office, reduction in pay, demotion, restriction on promotion and any other unfair personnel actions;
3. Work reassignment, transfer, denial of duties, rearrangement of duties or any other personnel actions that are against the whistleblower's will;
4. Discrimination in the performance evaluation, peer review, etc. and subsequent discrimination in the payment of wages, bonuses, etc.;
5. The cancellation of education, training or other self-development opportunities; the restriction or removal of budget, work force or other available resources, the suspension of access to security information or classified information; the cancellation of authorization to handle security information or classified information; or any other discrimination or measure detrimental to the working conditions of the whistleblower;
6. Putting the whistleblower's name on a black list as well as the release of such a blacklist, bullying, the use of violence and abusive language toward the whistleblower, or any other action that causes psychological or physical harm to the whistleblower;
7. Unfair audit or inspection of the whistleblower's work as well as the disclosure of the results of such an audit or inspection;
8. The cancellation of a license or permit, or any other action that causes administrative

disadvantages to the whistleblower;

9. The termination of a contract for goods or services, or any other measure that causes economic disadvantages to the whistleblower.

Any person who violated the prohibition of retaliation against whistleblowers is subject to criminal punishment, and specific levels of punishment vary depending on the type of disadvantageous actions taken.

Criminal punishment for those who imposed disadvantageous measures against whistleblowers

Type of disadvantageous measures (Sub. 6 of Article 2 of the Act)	Criminal punishment
a. Removal from office, release from office, dismissal or any other unfavorable personnel action equivalent to the loss of status at work	Imprisonment for not more than two years or by a fine not exceeding 20 million won
b. Disciplinary action, suspension from office, reduction in pay, demotion, restriction on promotion and any other unfair personnel actions; c. Work reassignment, transfer, denial of duties, rearrangement of duties or any other personnel actions that are against the whistleblower's will;	Imprisonment for not more than one year or by a fine not exceeding 10 million won
d. Discrimination in the performance evaluation, peer review, etc. and subsequent discrimination in the payment of wages, bonuses, etc.;	
e. The cancellation of education, training or other self-development opportunities; the restriction or removal of budget, work force or other available resources, the suspension of access to security information or classified information; the cancellation of authorization to handle security information or classified information; or any other discrimination or measure detrimental to the working conditions of the whistleblower; f. Putting the whistleblower's name on a black list as well as the release of such a blacklist, bullying, the use of violence and abusive language toward the whistleblower, or any other action that causes psychological or physical harm to the whistleblower; g. Unfair audit or inspection of the whistleblower's work as well as the disclosure of the results of such an audit or inspection;	
h. The cancellation of a license or permit, or any other action that causes administrative disadvantages to the whistleblower; i. The termination of a contract for goods or services, or any other measure that causes economic disadvantages to the whistleblower.	Protective measures are recommended. No penal provision.

B. Prohibition on Obstruction or Forcing Cancellation of Whistleblowing for the Public Interest

No person shall obstruct the act of public interest whistleblowing or force public interest whistleblowers to rescind his/her case. Anyone who breaches the obligation of not obstructing or forcing cancellation of public interest whistleblowing will be punished by imprisonment for not more than one year or by a fine not exceeding 10 million won.

(2) Recovery of the Original State of Life and Other Protective Measures

A. Application for Protective Measures

The Eligible

Not just public interest whistleblowers but also cooperators who made statements, testified, or provided information in an examination, investigation or lawsuit regarding a public interest whistleblowing case, or in an investigation, lawsuit or other occasions concerning the protection of the public interest whistleblower are eligible for protective measures.

Grounds for Application

When the public interest whistleblower, etc. is retaliated against for his/her public interest whistleblowing, stating, testifying or providing materials at the investigation or litigation regarding the whistleblowing or protective measures for the whistleblower, the public interest whistleblower, etc. can request the Commission to take the necessary protective measures including recovery of his/her state of life.

In case where the whistleblower faced disadvantageous measures before the whistleblowing is made in preparation for the public interest whistleblowing including collection of evidential materials, he or she is eligible for protective measures if the whistleblowing is made afterwards.

Period for Application

A request for protective measures should be made within three months from the date the disadvantageous measures were taken (or the date when the disadvantageous measures ended if they continued for a period). If the request is made after the period, the Commission may reject the request so that the whistleblower cannot be protected. However, should the public interest whistleblower be unable to apply for protective measures within three months due to force majeure such as natural disasters, war, emergency or others, he/she may submit the request within 14 days from the date on which the force majeure no longer exists (whereas the request is made in a foreign country, the period extends up to 30 days).

Relationships with Other Measures for Remedy

If an employer takes disciplinary actions such as dismissal, suspension from work or office, reassignment of job and punitive wage cut against an employee due to his/her whistleblowing, it constitutes an unfair dismissal or unfair labor practice under the Labor Standards Act. In this case the employee can request a remedy for the unfair labor practice to the Labor Relations Commission. Like the said case, if an administrative remedy, under laws other than this Act, is applicable for the disadvantageous measures caused by a public interest disclosure, the whistleblower may apply for such a remedy.

However, the applicant should apply for protective measures either at the Commission or from the other remedial procedures so that duplicated measures for the same case can be prevented. It means, if a public interest whistleblower applied for protective measures to the Commission under this Act, he/she is not allowed to request other measures for remedy. The Commission may decide to reject a request for protective measures if a request for a remedy has been filed under some other laws or if a remedy was already provided in accordance with the remedy procedures under other laws.

B. Examination regarding Protective Measures

Procedures and Methods

Upon receiving a request for protective measures, the Commission begins to examine whether the public interest whistleblower suffered disadvantageous measures in retaliation for his/her public interest whistleblowing. For the examination, the Commission may request the applicant for protective measures, the person who conducted the disadvantageous measures, reference persons, and relevant institutions, organizations and companies to submit relevant materials. The Commission may also request them to appear before the Commission, make an oral statement or submit a written statement.

Any person who refuses to appear before the Commission, make an oral statement, submit a written statement or perform other requests of the Commission may be punished by a fine for negligence not exceeding 30 million won.

Presumption of Retaliation

If a public interest whistleblower is subject to disadvantageous measures within two years from the day the public interest disclosure was made, it is presumed that the whistleblower has been retaliated against for the whistleblowing. In this case, the burden of proof is transferred to person who took the disadvantageous measures.

Grounds for the presumption of disadvantageous measures (Article 23 of the Act)

1. In the event that there is an attempt to identify the public interest whistleblower, etc., obstruct his/her public interest whistleblowing, etc. or force him or her to rescind his/her case;
2. In the event that a disadvantageous measure was implemented within two years from the day the public interest whistleblowing, etc. was performed; and
3. In the event that disadvantageous measures were implemented even after the Commission recommended not to.

Recommendation of Reconciliation

If the Commission receives a request for protective measures, it may recommend reconciliation or present a reconciliation proposal about protective measures, compensation for damages either ex officio or upon the request of any of the concerned parties before it makes decisions on protective measures or gives a recommendation.

If the concerned parties agree to accept the reconciliation proposal of the Commission, the reconciliation protocol is written and signed or sealed. The protocol has the same effect as a judicial reconciliation under the Civil Procedure Act. That means the protocol has the same effect as that of a finalized judgment so that the concerned parties are no longer able to request its cancellation or adjustment via administrative measures for remedy or litigation.

C. Decisions regarding Protective Measures

Request for Protective Measures

If an examination finds the applicant for protective measures had been subjected to disadvantageous measures for his/her act of public interest whistleblowing, the Commission may decide to ask the person who implemented such disadvantageous measures to take measures to recover the status of the whistleblower and other protective measures within 30 days. If the Commission makes a decision to act for protective measures, it can also request a relevant disciplinary authority to take disciplinary actions or other necessary steps against the person who implemented disadvantageous measures against the whistleblower.

Types of protective measures (Article 20 of the Act)

- Measures to recover his/her state of life;
- Payment of remuneration, etc. that has been delayed or has been paid discriminately, including interest; and
- The cancellation or prohibition of other disadvantageous measures.

Recommendation of Protective Measures

If an examination finds the applicant for protective measures had been subjected to administrative or economic disadvantageous measures for his/her act of public interest whistleblowing, the Commission may decide to recommend that the person who implemented the disadvantageous measures take the protective measures, within a period of 30 days, necessary to enable a permit, license, contract, etc. to remain in effect.

The Commission issues a recommendation for protective measures, rather than a decision, when it comes to administrative or economic disadvantages because as for administrative disadvantages, protective measures called upon by the Commission may overlap with an administrative appeal, and protective measures for economic disadvantages may be regarded as the state's excessive intervention into the domain of private autonomy.

Decisions to Reject or Dismiss Requests for Protective Measures

The Commission may decide to reject a request for protection if it comes under any of the reasons of rejecting such a request, prescribed in the Act, including making the request after an application period.

In addition, if the public interest whistleblower deems not to have been subjected to disadvantageous measures because of his/her public interest whistleblowing, the Commission may decide to dismiss the request for protective measures.

Reasons to reject the request for protective measures (Article 18 of the Act)

1. If the request was made by someone other than the public interest whistleblower, etc. or his/her agent;

2. If the relevant public interest whistleblowing falls under any of the Subparagraphs of Article 10, Paragraph 2;
3. If the request was made after the prescribed period (3 months from the date the disadvantageous measures were taken);
4. In the event that the applicant resubmitted a request for protective measures that the Commission had already dismissed, rejected, or decided to take;
5. In the event that the request was made again in relation to administrative or economic disadvantages to which the Commission had recommended protective measures be applied;
6. In the event that a request for a remedy has been filed under some other Act(s) and subordinate statute(s); and
7. In the event that a remedy was already provided in accordance with the remedy procedures under some other Act(s) and subordinate statute(s).

Implementation and Confirmation of Decision to Take Protective Measures

Any person who was requested or recommended to take protective measures, or asked to take disciplinary actions by the Commission should notify the Commission of the results of the implementation of such request or recommendation, or reasons for failing to comply with them within 30 days from the request or recommendation.

The applicant for protective measures and the person who took disadvantageous measures cannot file an administrative appeal under the Administrative Appeals Act against the ACRC's decision regarding protective measures. They can file an administrative litigation against the Commission's decision regarding protective measures within 30 days from the day the notification of the decision was received.

If the applicant and retaliator do not file an administrative litigation within 30 days from the day the notification was received, the ACRC's decision to take, dismiss or reject the request for protective measures is confirmed. If the retaliator refuses to implement decided protective measures, he or she may be punished by imprisonment for not more than two years or by a fine not exceeding 20 million won.

If a retaliator refuses to comply with protective measures such the recovery of his/her state of life and files an administrative litigation, the whistleblower may suffer the retaliation for a long time until the final judgement of the court is issued. To address this worrisome possibility, the amended Act, coming into effect in January 2016,

stipulates that the effect of the decision on protective measures remains valid even if an administrative litigation is raised against it, and introduces the charge for compelling compliance with the decision.

The ACRC imposes a charge for compelling compliance of not more than 20 million won to the person who has failed to carry out the decided protection measures within a certain period after the decision was made. Starting from the date that the protection measure was decided, non-compliance charge can be repeatedly applied up to twice a year until the protection measures are taken and it cannot be imposed for more than two years.

The standards for imposing compliance compelling charges were drawn up to take into account the types of disadvantageous measures. For example, those who fail to perform protective measures for removal from office, release from office, dismissal or any other disadvantageous personnel action equivalent to the loss of status at work are subject to the compliance compelling charge of not less than 10 million won and not more than 20 million won. Refusal to take protective measures regarding work reassignment, transfer, denial of duties, rearrangement of duties and other similar unfavorable personnel actions leads to the charge of not less than 5 million won and not more than 10 million won. As for other disadvantageous measures, the charge will be set between not less than 1 million won and not more than 10 million won.

Criteria to impose charges for compelling compliance (Article 17-2 of the Enforcement Decree for the Act)

1. General criteria

The specific amount of charges for compelling compliance shall be determined within the range set by the type by considering the motive of the violation, the extent of culpability, such as whether the violation occurs by intention or negligence, the degree of effort to implement the protective measures, and the period of non-compliance. However, if there coexists more than one violation, the amount shall be based on the heavier one.

2. Specific criteria

Violation	Amount
A. Where a person fails to implement protective measures to recover the original state, called upon by the Commission pursuant to Article 20 (1) 1 of the Act (including cases where it is applied mutatis mutandis pursuant to Article 20-2 (2) of the Act) from disadvantageous measures falling under any of the following subparagraphs:	
1) Disadvantageous measures prescribed in subparagraph 6 (a) of Article 2 of the Act;	10 mil ~ 20 mil won
2) Disadvantageous measures falling under subparagraph 6 (b) or (c) of Article 2 of the Act; and	5 mil ~ 10 mil won
3) Disadvantageous measures falling under subparagraph 6 (d) through (g) of Article 2 of the Act.	1 mil ~ 10 mil won
B. Where a person fails to implement protective measures to pay the remuneration that has been delayed or has been paid discriminately, including interest, called upon by the Commission pursuant to Article 20 (1) 2 of the Act (including cases where it is applied mutatis mutandis pursuant to Article 20-2 (2) of the Act)	1 mil ~ 10 mil won
C. Where a person fails to implement protective measures to cancel or prohibit other disadvantageous measures, called upon by the Commission pursuant to Article 20 (1) 3 of the Act (including cases where it is applied mutatis mutandis pursuant to Article 20-2 (2) of the Act)	1 mil ~ 10 mil won

D. Decision on Special Protective Measures (New provisions)

A protected whistleblowing means reporting the violation of public interest that occurred or is likely to occur. Acts of violating public interest are those subject to the penalties or administrative disposition prescribed by a set of predetermined laws. In fact, it is difficult for the reporter to determine whether the reported act is subject to the violation of applicable laws. Therefore, there is a need to protect a person retaliated due to the reporting that he or she believes as public interest whistleblowing.

The treatment of public interest whistleblowing report on New 7 Wonders of Nature poll and related rulings

- A public interest whistleblowing report was made that a telecommunication company charged international call rates to customers who used its calling and texting service to vote for Jeju island to be selected as one of the New 7 Wonders of Nature while in fact it was provided through local service line.
 - After examining the case, the Fair Trade Commission exempted the accused of the suspicion on the ground that it is hard to see the case as an obvious breach of the customer interest, but the Korea Communications Commission imposed fine for negligence on a charge of violating the Telecommunications Business Act (The Telecommunications Business Act is not subject to public interest whistleblowing).
- The accused, Company △△, filed an administrative litigation against the ACRC's decision to take a protective measure, which is to call for the company to rescind the unfair transfer of the whistleblower.
 - (First instance) The court ruled that a decision to take protective measures can remain binding only if the result of the examination agency confirms the occurrence of a violation of the public interest (May 2013).
 - (Second instance) The appellate court decided in favor of the ACRC and ruled that if the whistleblower did not know and could not have known that the whistleblowing information was incorrect, the disclosure constitutes a public interest whistleblowing and the case in question is a public interest whistleblowing (May 2014).
- Company △△ filed an administrative litigation against the ACRC's decision to take a protective measure, calling for the company to cancel the dismissal of the whistleblower.
 - (First instance) The court ruled that recognizing as a public interest whistleblowing only the confirmed violation of the public interest imposes excessive obligation on the reporter. This does not meet with the purpose of the Act, which is to establish a transparent social climate by protecting whistleblowers for the public interest. The dismissal should be revoked as it is a retaliatory measure against the whistleblower (May 2015).
 - (Second instance) As for whether the reported matter constitutes the violation of the public interest under the Article 2 (i) of the Act, it is reasonable to recognize a report as a public interest whistleblowing if the reporter, based on his or her intention, did not or was not able to know that it was false (Sep. 2015).

Recently, the court has recognized as a whistleblower an informer who reported an act that was not found to have violated the public interest. The special protection measures under this amended Act are an explicit stipulation of the court's decision. In cases where there is a reasonable ground for the informant to think of an act as the violation of the public interest at the time of his or her reporting, and he or she is highly likely to be

retaliated against with regard to his/her status, or suffer personnel, administrative, or economic disadvantages due to public interest whistleblowing, the ACRC may make a decision on special protection measures. This provision allows to cover the blind spots of the whistleblower protection system under the current law, which limits the violation of the public interest to those prescribed under predetermined laws.

Those who fail to implement the special protection measures will be charged a fine for negligence not exceeding 20 million won.

(3) Request for Prohibition on Disadvantageous Measures

In case a public interest whistleblower, etc. is likely to be subject to disadvantageous measures due to his/her reporting, testifying, stating or submitting materials in the public interest whistleblowing report, investigation or litigation with regard to the reporting or the protective measures for the whistleblower, he or she can request for the prohibition of retaliation even before the disadvantageous measures are taken. In addition, if someone is obviously likely to be subject to disadvantageous measures when he or she is collecting evidence of a violation of the public interest and doing other preparatory work for the report, he or she can request the ACRC for the prohibition of the expected disadvantageous measures.

The request for prohibition of disadvantageous measures is made against disadvantageous measures that have not yet occurred. There is no prescribed application period.

The Commission may issue a recommendation to the person intending to take disadvantageous measures not to take such measures, if it deems that, as a result of investigation, a public interest whistleblower, etc. is likely to be subject to retaliation due to the public interest whistleblowing.

(4) Mitigation and Remission of Culpability, etc.

A. Mitigation and Remission of Penalties, Disciplinary Actions and Disadvantageous Administrative Dispositions

If a person makes a public interest whistleblowing pursuant to this Act and it results in the detection of a crime committed by himself/herself, the punishment for the crime may be mitigated or remitted. In addition, if the public interest whistleblower is subject to disciplinary actions for his/her illegal acts discovered due to the public interest whistleblowing, the Commission may request the relevant disciplinary authority to

mitigate or remit the disciplinary action. In this case, the person who received such a request should accept it unless there is any justifiable reason not to do so.

Example of Mitigation and Remission of Culpability

- The culpability of whistleblowers that was remitted in relation to the report of environmental pollution from a waste incineration facility at △△ City
 - A supervisory organization filed a complaint to the police against those who were involved in falsification of pollutant concentration measurement data, including the public interest whistleblowers.
 - The ACRC requested the prosecution to mitigate the culpability of the public interest whistleblowers, and the prosecution suspended indictment of the whistleblowers.

The amended Act, which entered into effect in January 2016, extends the scope of mitigated culpability to cover disadvantageous administrative dispositions.

Related Case

- A person who worked as skilled industry personnel (on alternative civilian service) reported to the Nuclear Safety and Security Commission that he had been exposed to an excessive amount of radiation at the worksite because he had to work without appropriate personal protection equipment. In the process of examining his report, he was found to have violated the Military Service Act by working in a department other than the designated. He was subject to an administrative disposition of compulsory service of additional 440 days after his duty was over. He could not be relieved because the Act lacked exemption provision for the administrative dispositions.

B. Exemption of the Work-related Confidentiality Obligation

If a public interest whistleblowing was made under this Act and it contains confidential work-related information, the public interest whistleblower shall be deemed not to have violated his/her professional confidentiality obligation, notwithstanding the provisions of some other Acts and subordinate statutes, collective bargaining agreements or employment rules, etc. The provisions prohibiting or restricting public interest whistleblowing in a collective agreement, employment agreement, supply contract and other instruments are deemed invalid.

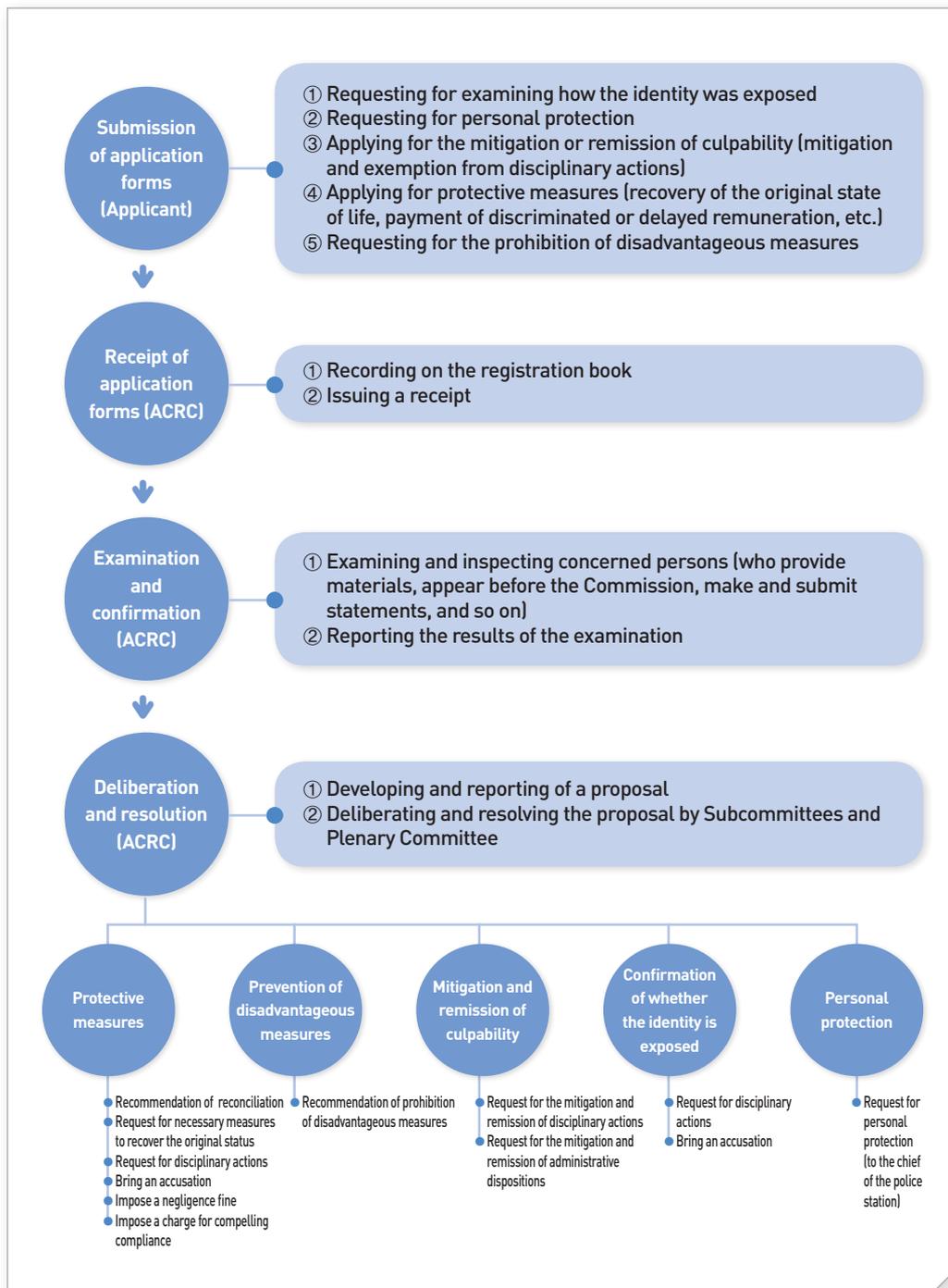
C. Prohibition of Claims for Damages

The accused cannot file a claim for damages caused by the public interest disclosure against the whistleblower. However, if the whistleblowing is false or made for improper purposes, the accused can claim damages against the reporter because the disclosure is not regarded as a public interest whistleblowing.

(5) Preferential Consideration in Personnel Affairs

If the public interest whistleblower, etc. requests his/her employer or personnel authority for a personnel action such as change of occupation, change of position, transfer out, transfer in, or dispatch, a prior consideration should be given to the request if deemed reasonable.

★ Flow Chart of Protecting Public Interest Whistleblowers ★



☆ Q&As

1. What are the disadvantageous measures from which the public interest whistleblower can be protected?

Disadvantageous measures include formal and typical disadvantages, and informal and atypical disadvantages. More specifically, they include (a) unfavorable personnel actions equivalent to the loss of status at work such as removal from office and dismissal; (b) personnel dispositions against one's will such as disciplinary actions, suspension from office, reduction in pay, transfer, denial of duties and rearrangement of duties; (c) discrimination in the performance evaluation or peer review, and subsequent discrimination in the payment of wages and bonuses; (d) the cancellation of education, training or other self-development opportunities, the restriction or removal of budget, work force or other available resources, and any other discrimination in terms of working conditions; (e) putting the whistleblower's name on a black list as well as the release of such a blacklist, bullying, the use of violence and abusive language toward the whistleblower, or any other action that causes psychological or physical harm to the whistleblower; (f) unfair audit or inspection of the whistleblower's work as well as the disclosure of the results of such an audit or inspection; (g) the cancellation of a license or permit, or any other administrative disadvantages; (h) the termination of a contract for goods or services, or any other economic disadvantages.

2. How do I apply for protective measures?

When a public interest whistleblower or a cooperator is retaliated against for his/her public interest whistleblowing, etc., they can request the ACRC to recover the state of life or take any other necessary measures. A request for the protective measures should be made within three months from the date of retaliation. However, should the public interest whistleblower be unable to apply for protective measures within three months due to force majeure such as natural disasters, war, emergency or others, he/she may submit the request within 14 days from the date on which the force majeure no longer exists (whereas the request is made in a foreign country, the period extends up to 30 days).

3. What kinds of protection are provided regarding public interest whistleblowing?

Major protective measures include ① guarantee of confidentiality, which prevents anyone from telling, disclosing to or publicizing the personal information of a public interest whistleblower, or other facts that may infer his/her identity; ② personal safety, which is provided if public interest whistleblowers have faced or are likely to face serious danger

to their lives or persons; ③ protective measures including the recovery of the state of life from removal from office, dismissal or other damages to their work-related status and the payment of delayed or discriminated wages; ④ prohibition of disadvantageous measures, taken in advance in case where a public interest whistleblower is obviously likely to be subjected to disadvantageous measures; and ⑤ the mitigation or remission of punishment, disciplinary actions or unfavorable administrative actions if a crime or illegal acts of the public interest whistleblower, etc. are found in connection with a the public interest report.

4. Can I apply for other remedies or file a lawsuit to the court at the same time as applying for the protective measures?

Yes. If other laws stipulate administrative processes for relief, including the Labor Relations Commission providing remedy for unfair dismissal, a public interest whistleblower can request for such an administrative remedy. However, if the potential applicant already applied for protective measures to the Commission, he/she is not allowed to request an administrative remedy pursuant to other laws. Likewise, if the applicant already requested remedy under other laws and applied for protective measures at the Commission, the Commission may decide to reject the request.

Unlike administrative remedy, litigation for confirmation of the nullity of dismissal and other lawsuits can always be filed at the court, and such a litigation does not have any legal effect on the application or decision of protective measures. However, given the considerable time and costs expected until the issuance of the court's final judgment, it seems that the application for protective measures from the ACRC will be more effective and responsive to protect the public interest whistleblower.

5. Can I disclose the contents of the report other than the personal information of the whistleblower, etc.?

No. It is strictly prohibited to disclose the personal data of the accused and other details of the whistleblowing report until the violation of the public interest is confirmed through investigation. The violator of this prohibition will be punished by imprisonment for up to three years or a fine of up to 30 million won, as in the case of disclosing and publicizing personal information of a public interest whistleblower.

6. Are there any cases where a whistleblower is not protected depending on its motive?

Yes. The Act on the Protection of the Public Interest Whistleblowers does not regard

false reports as public interest whistleblowing. For example, if the informant had known or could have known that the information was false, reporting such information is not considered the public interest whistleblowing. Moreover, if the informer demanded money, goods, or a special favor regarding employment relationship in return for the information, or that the whistleblowing was done for some other illegal purposes, the report is not deemed a public interest disclosure.

Given the legal consciousness of the public and the objective of the Act, it is not appropriate to protect people who do not observe the duty of good faith or who have filed whistleblowing reports for the purpose of getting money and other unjust intention.

7. Will those who report a public interest violation in which they are involved be protected?

Yes. If a public interest disclosure results in the detection of criminal or illegal acts committed by the whistleblower, etc., he/she is eligible for protective measures such as guarantee of confidentiality, personal protection and the recovery of original state of life. In addition, the public interest whistleblower may have the punishment, disciplinary actions and even disadvantageous administrative actions mitigated or remitted. The Commission may request the relevant disciplinary authority to mitigate or remit the disciplinary action or administrative disposition. In this case, the person who received such a request should accept it unless there is any justifiable reason not to do so.

8. Can I be protected if I receive detrimental treatment due to my cooperation regarding the investigation or litigation of a public interest disclosure and relevant protective measures even though I am not a public interest whistleblower?

Yes. It is imperative, to confirm the violation of the public interest and protect the whistleblower, for the colleagues, etc. of a whistleblower to state or testify to the facts concerning the violation of the public interest or the retaliation against the public interest whistleblower in the investigation or lawsuits related to the public interest disclosure or protection measures. As such, the Act on the Protection of the Public Interest Whistleblowers stipulates that such cooperators can receive protection such as confidentiality guarantee, personal protection, protective measures, and the mitigation and remission of culpability.

9. Can agency workers or fixed-term workers be protected?

Disadvantageous measures and protections against whistleblowing apply to all

citizens regardless of the form or type of labor contract. As such, if an agency worker is requested to be replaced, or a fixed-term worker is rejected for the renewal of work contract due to his/her report on the violation of the public interest, it also constitutes a disadvantageous measures against the status and the whistleblower can be protected by the Act on the Protection of the Public Interest Whistleblowers.

Agency workers and fixed-term workers can also be protected by special protective measures as a whistleblowing insider. As such if there is a reasonable reason to believe that the violation of the public interest occurred at the time of reporting, he or she can be protected even if no actual violation is found.

10. If a corporation suffers damage due to a public interest disclosure, can it claim damages against the whistleblower?

No. The accused, including business entities, cannot claim damages against public interest whistleblowers pursuant to Article 14 (4) of the Act, even if they are damaged by the whistleblowing. However, one can claim damages if the whistleblower knew or could have known that the whistleblowing information was false, if the whistleblower demanded money or favors in employment relationship in connection with the whistleblowing, or if the whistleblowing was done for some other illegal purposes because they are not deemed to be the public interest disclosure.

11. Can I be protected if I report what was already publicized on the media?

If there is no new evidence other than the contents disclosed through the mass media, it falls under the reason of terminating the public interest whistleblowing case, and the application for protective measures can be rejected. However, the Commission has some discretion over rejections and it is hard to say that a report of the violation of the public interest is not worth protection just because it is already publicized in the mass media.

If the content of a public interest disclosure is already published through the media, and if the report is made by collecting well-known materials on the internet and has no new evidence other than what was publicly disclosed, it is not worth protection. However, in case where it was first reported in the media and later filed for public interest whistleblowing, the whistleblower is worthy of protection if he/she was the one who first found the violation of the public interest and prepared for the disclosure by collecting evidence.

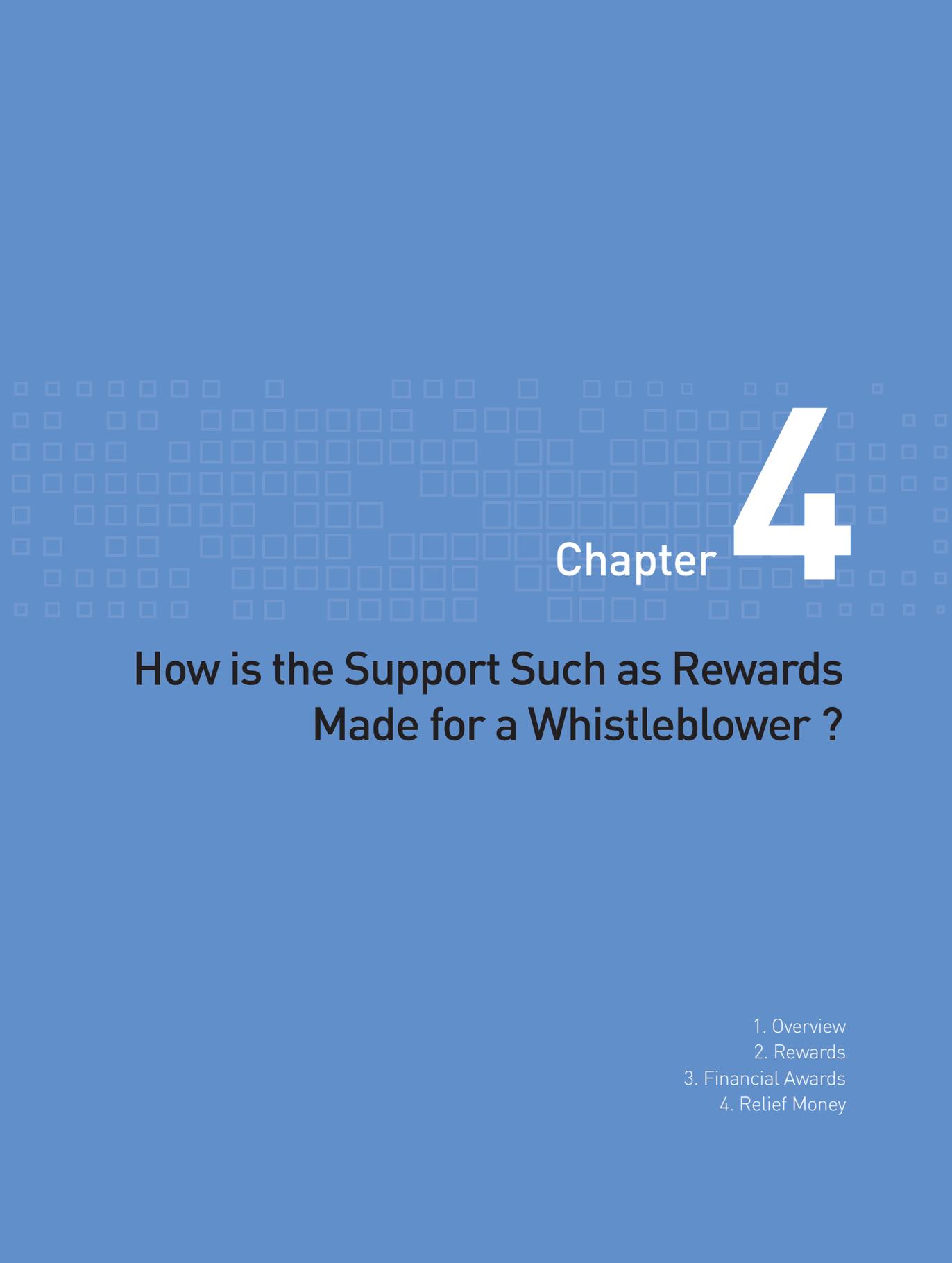
12. What is an act of preparing for reporting a violation of the public interest?

The act of preparing for reporting a violation of the public interest covers a comprehensive range of behaviors from collecting information on the violation of the public interest to investigating into and confirming the case before a whistleblower, etc. makes a public interest disclosure.

Employees and other insider informants are easily subject to retaliatory disciplinary actions if they are discovered to have collected information on a potential violation of the public interest inside the organization. As such, it is not reasonable to assume that disadvantageous measures may be taken only after the whistleblowing is made. Hence protective measures are applicable if there is a reason to think that a detrimental treatment is caused due to the exposure of whistleblower at the preparatory stage such as raising concerns about a violation of the public interest and collecting related information.

13. In case where the personal information of the whistleblower or the content of the report is not exposed by a public official in the process of investigation, but inferred by the accused based on the circumstances, does it constitute a violation of the confidentiality guarantee obligation?

The Act on the Protection of the Public Interest Whistleblowers stipulates that no person shall inform others of, disclose or report the personal information of the whistleblower, etc. or other facts that one can infer whistleblower's identity, although he/she knows the circumstances. The purpose of this provision is to protect the whistleblower, etc. who may be subjected to retaliation or other detrimental treatments due to his/her reporting and its subsequent disclosure of identity, as well as to promote whistleblowing. Therefore, if the accused infers the identity of the whistleblower from circumstances, it cannot constitute violation of confidentiality obligations.



Chapter 4

How is the Support Such as Rewards Made for a Whistleblower ?

1. Overview
2. Rewards
3. Financial Awards
4. Relief Money

Chapter 4.

How is the Support Such as Rewards Made for a Whistleblower ?

1. Overview

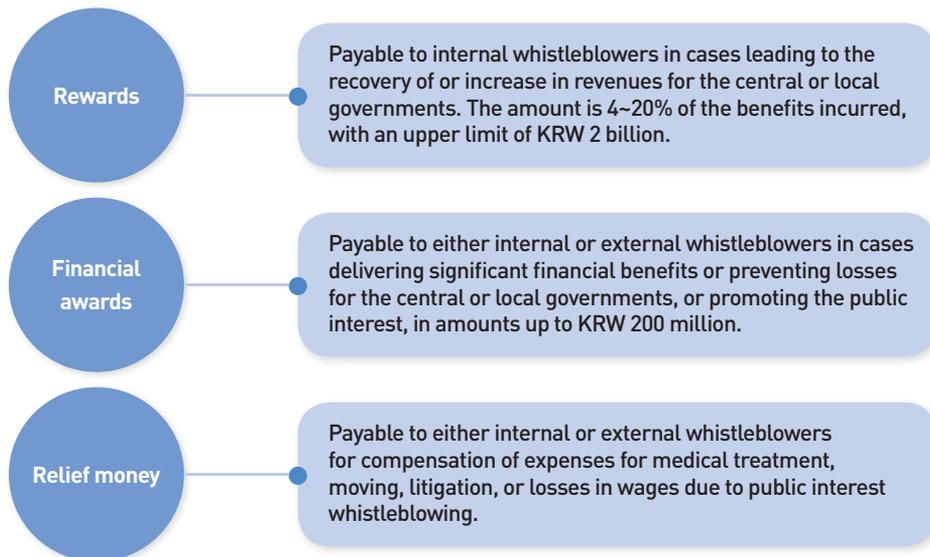
For the promotion of the public interest reporting, it is necessary to provide financial incentives to public interest whistleblowers who made a report despite the potential disadvantages, preventing violations of the public interest and stopping the spread of further damage, ultimately promoting public interest.

To this end, public interest whistleblowers can request the payment of rewards from the Commission if whistleblowing has directly resulted in the recovery of or increase in revenues for the central or local governments or related legal relations have been established. The amended Act effective as of January 2016 stipulates that the Commission limits rewards to internal whistleblowers who disclose the wrongdoings of the organizations they belong to. This is aimed at strengthening protection and compensation for internal whistleblowers who are likely to be retaliated against due to their reporting, as well as preventing abusive practices by professional informers who exploit the system for compensation.

The amendment inserts a new provision on financial awards which the ACRC provides whistleblowers at its discretion. Under the new provision, those who do not meet the criteria of rewards can be received financial awards if they are recognized as having contributed to the public interest.

In addition, public interest whistleblowers, etc., and their relatives or cohabitants can request the payment of relief money from the Commission if they have faced damages or spent expenses due to public interest whistleblowing.

The payment of rewards, financial awards and relief money for public interest whistleblowers can play a significant role in encouraging public interest whistleblowing and compensating whistleblowers for potential damages they may face, thereby contributing to the prevention and elimination of violations of the public interest.



2. Rewards

(1) Eligibility

Although anyone can report a violation of the public interest, the payment of rewards for whistleblowing is limited to internal whistleblowers, who are likely to lose status or be subject to personnel or economic retaliation due to public interest disclosures.

Internal whistleblowers are divided into four categories: ① Employees, interns and others who have an employment relationship with the accused; ② Employees of suppliers or subcontractors, and others who work under contract with the accused; ③ Those who are under the de facto influence of the accused such as the employees of companies or organizations affiliated with the accused; and ④ Students and others who are under the management or supervision of the accused.

(2) Grounds for Payment

Internal public interest whistleblowers may request the payment of rewards from the Commission if their whistleblowing has directly resulted in the recovery of or increase in revenues for the central or local governments, or legal relations in that matter have been established.

Rewards for public interest whistleblowing are compensatory for the contributions to the revenues of the national and local governments, which would not have been recovered without the public interest whistleblowing.

The Commission can pay rewards to public interest whistleblowers if the whistleblowing has directly resulted in the recovery of or increase in government revenues by imposing any of the items listed below, or legal relations in that matter have been established.

Grounds for the payment of rewards (Article 26 of the Act)

- Penalties or disposition of notification;
- Confiscation or imposition of additional charges;
- Imposition of fines for negligence or charges for compelling compliance;
- Imposition of penalty surcharges (including a penalty surcharge in lieu of the cancellation or suspension of a permit, license, etc.);
- Imposition of national or local taxes;

- Imposition of charges or additional charges; and
- Judgment to compensate damages or retribute unlawful gain.

(3) Payment Procedures

Internal whistleblowers should apply for the payment of rewards to the Commission, and the application should be filed within two years from the date they became aware of the establishment of legal relations regarding the recovery of or increase in revenues for the central or local governments, or within five years from the date the legal relations in that matter were established.

With regard to the payment of rewards, the Commission performs a necessary examination of the application by requesting that the applicant, reference persons, relevant agencies and other parties attend the Commission, state their opinions or submit relevant materials. The Commission then determines whether to pay such rewards, as well as the amount of the rewards to be paid, based on deliberation and resolution by the Reward Deliberation Board. This occurs within 90 days of the date that the application was made, barring any exceptional impediments.

(4) Criteria for Payment of Rewards

Rewards should exceed KRW 200,000 with the maximum amount being KRW 2 billion. The actual amount is determined as a percentage between 4% and 20% of the benefits incurred by the governments.

Criteria for payment of rewards (Attached table 2 of the Enforcement Decree for the Act)

Benefits Incurred	Criteria
KRW 100 million or less 20%	20%
Over KRW 100 million and not more than KRW 500 million	KRW 20 million + 14% for the amount exceeding KRW 100 million
Over KRW 500 million and not more than KRW 2 billion	KRW 76 million + 10% for the amount exceeding KRW 500 million
Over KRW 2 billion and not more than KRW 4 billion	KRW 226 million + 6% for the amount exceeding KRW 2 billion
Over KRW 4 billion	KRW 346 million + 4% for the amount exceeding KRW 4 billion

※ Benefits Incurred: The value of the recovered or increased revenues of the central government or local autonomous governments by the imposition, etc. (or such value at the time of the establishment of legal relations related to that matter) as referred to in Article 26, Paragraph 1 of the Act and in any Subparagraph of Article 21 of the Enforcement Decree

In calculating rewards in accordance with the criteria, amounts may be reduced or not paid in consideration of the following factors.

Factors to be considered for reducing rewards (Article 22 of the Enforcement Decree for the Act)

1. Accuracy of the report or credibility of evidential materials;
2. Whether the reported violation of the public interest had already been disclosed through newspapers, broadcast or other mass media;
3. Whether the public interest whistleblower committed any illegal act(s) related to the report;
4. The extent to which the public interest whistleblower has contributed to the eradication and prevention of violations of the public interest; and
5. Whether the public interest whistleblower had an obligation to report a violation of the public interest or whether the report was related to that whistleblower's duties.

According to the public notice "Rules on the Criteria for the Payment of Rewards for Public Interest Whistleblowing", which took effect on October 31, 2014, all public interest whistleblowing cases filed before the effectuation date were subject to rewards without limitation on the number of payments, while after that date, the number of payments has been limited to ten cases a year per individual. Reward payment limitations were also introduced to prevent rewards from being sought by bounty hunters whose only interest is in collecting such rewards.

Reasons for restricting the payment of rewards (Article 4 of the Public Notice)

1. In cases that the accused has not been specified and an unspecified number of persons have been randomly mentioned so that the method of reporting prescribed in Article 8 of the Act has not been followed.
 - Ex) A person requests the disclosure of administrative information regarding a list of livestock facilities to Department A and a list of livestock excreta discharge facilities to Department B. The reporter creates a new list of inconsistencies found by comparing the two lists. The reporter then requests a competent authority to investigate dozens of other livestock facilities to check for additional violations of the Act on the Management and Use of Livestock Excreta.
2. In cases that the accuracy of the report or the credibility of the evidence is significantly flawed because the reporter has submitted materials that could easily have been collected through internet searches or requests for the disclosure of administrative information without any specific and detailed evidence of the violation of the public interest.

- ☞ Ex) When a person randomly reports violations of the Farmland Act and Mountainous Districts Act by capturing computer screens showing illegally converted agricultural lands and mountainous areas, which were collected using internet maps, without any specific field evidence.
3. When a person submits a whistleblowing report on a violation of the public interest by utilizing unlawful methods such as inducing or encouraging the accused to violate the public interest or taking part in a conspiracy to receive rewards.
 - ☞ Ex) A reporter induces and encourages an unqualified employee in a pharmacy to sell drugs and records the scene to report as a violation of the Pharmaceutical Affairs Law.
 4. In cases where correctional or restitution orders caused by a original whistleblowing report were not obeyed, and an application for the payment of rewards is submitted for the fines, penalties or charges for compelling compliance that were imposed because the correctional or restitution orders were not followed.
 - ☞ Ex) A public interest whistleblower, who has reported a violation of the Building Act, applies for rewards on a charge for compelling compliance imposed on the accused, who failed to perform a correctional order requiring the demolition of a structure within a preset period.
 5. In cases which a person has re-accused or re-reported a violation of the public interest, which had already resulted in the imposition of non-monetary dispositions such as administrative guidance and correction orders, in an attempt to receive rewards if fines or charges for compelling compliance or penalties are imposed.
 6. If a whistleblower reports a violation of the public interest that the accused, or a public institution prescribed in Article 6 of the Act, is already aware of and which is already being remedied through corrective actions.
 7. If a whistleblower and the accused agree to a compensation settlement regarding damages incurred by the violation of the public interest.

Those who have received rewards under this Act can apply for rewards in accordance with other acts, but cannot receive duplicate rewards. If a person who has already received rewards under other acts applies for rewards to the Commission for the same case, the amount is determined by deducting the difference.

(5) Restitution

If the Commission pays rewards from the National Treasury after a whistleblowing report has resulted in the recovery of or increase in revenues for local governments, the local government in question should devolve an amount equivalent to the rewarded amount to the National Treasury within three months from the date the local government was

notified of the decision regarding the payment of rewards by the Commission. This is aimed at ensuring both incoming and outgoing finances match if the contribution from the public interest whistleblowing is limited to the local governments.

If the local government obliged to devolve rewards does not submit payment by the deadline, the Commission can collect the specified amount via the same methods through which national or local taxes in arrears are collected.

3. Financial Awards

(1) Grounds for Payment

The amended Act effective as of January 2016 provides for the granting of financial awards to those who have contributed to the public interest by reporting violations of the public interest even though the whistleblowing did not result in the direct increase in or recovery of revenues for the central and local governments. Examples of such contributions to the public interest include a perpetrator of a public interest violation being sentenced to imprisonment, or reinforcement work being completed on a flawed construction project in a timely manner so that a larger violation of the public interest is able to be prevented.

Financial awards are payable to those who bring financial benefits or prevent financial damages to the central or local governments, or serve the public interest in the following ways:

Grounds for the payment of financial awards

- If a public interest whistleblowing results in bringing significant financial benefits, preventing financial damage to a public organization, or serving the public interest for one of the following reasons:
 - Cases in which there is a suspension of prosecution, suspension of sentence, suspension of execution, or sentence against the person who has committed a violation of the public interest;
 - Cases in which there are corrective orders and other administrative dispositions to order or prohibit a specific behavior;
 - Cases that result in institutional improvements, for example, in the form of the enactment or revision of the acts and subordinate statutes;
 - Cases in which penalty surcharges or negligence fines have been imposed (except internal whistleblowers who have already received rewards); and
 - Cases in which the disclosure has contributed to the prevention of a greater social disaster.

As rewards are limited to internal public interest whistleblowers, financial awards that can be paid to both internal and external whistleblowers have become an important tool for encouraging public interest whistleblowing.

(2) Payment Procedures

Unlike rewards, which are paid upon whistleblower request, financial awards are paid at the discretion of the Commission.

The ACRC selects recipients of financial awards through the collection of recommendations from the central administrative authorities, local governments, investigative agencies and other public institutions that have the mandate to receive whistleblowing reports. When recommending candidates, public institutions should obtain consent from whistleblowers to ensure identities are not inadvertently disclosed during the recommendation process.

In addition to the recommendation of public institutions, the Commission can select recipients of financial awards at its discretion if it is deemed prudent to show recognition for a particular public interest whistleblower's contribution to the public interest.

(3) Criteria for Payment

The upper limit for financial awards is set at KRW 200 million, and the Reward Deliberation Board adjusts the actual amount by factoring in the severity of the reported infraction, period and amount of the disposition, the number of persons involved, whether the whistleblower was an insider, and the extent of the contribution to the public interest.

4. Relief Money

(1) Grounds for Payment

Public interest whistleblowers, etc., and their relatives or cohabitants can request the payment of relief money from the Commission if they have faced damages or spent expenses as a result of the public interest whistleblowing.

Grounds for request for relief money

1. Expenses spent for physical or psychological treatment;
2. Moving expenses caused by a change of occupation, change of position, or transfer of workplace or secondment;
3. Expenses spent for litigation procedures to reinstate the whistleblower's original state of life;
4. Loss of wages during the period in which disadvantageous measures were in effect; and
5. Other significant economic losses (excluding Items h "The cancellation of a license or permit, or any other action that causes administrative disadvantages to the whistleblower;" and i "The termination of a contract for goods or services, or any other measure that causes economic disadvantages to the whistleblower" in Article 2, Subparagraph 6.

(2) Payment Procedures

With regard to the payment of relief money, the Commission can examine the applicant and other concerned parties and make necessary inquiries into administrative agencies or other related organizations. The Commission then determines whether to pay and the amount to be paid, based on the deliberation and resolution of the Reward Deliberation Board within 90 days from the date that the application was made unless there exist exceptional reasons not to do so.

(3) Criteria for Payment

In calculating the amount of relief money, the following criteria should be considered:

Criteria for payment of relief money (Article 26 of the Enforcement Decree for the Act)

1. Expenses incurred related to medical examination, hospitalization, medication, surgery, etc. for physical and psychological treatment;
2. Actual costs incurred to move residence as a result of change of occupation, change of position or transfer of workplace, secondment, personal protection, etc.;
3. Fees incurred to hire a lawyer, certified public labor attorney, etc. for dispute over recovery of the whistleblower's original state of life;
4. Monthly average of wages or actual income during the three months prior to the date disadvantageous measures were taken; or the national monthly average wage (the nationwide average of wages for male or female general workers as surveyed by an agency that announces wage statistics at least six times a year) in the event that there exists no method to prove the actual amount of the monthly average, or the calculated monthly average is below the national average wage. However, the calculated amount cannot exceed double the national monthly average wage; and
5. Other expenditures which the Reward Deliberation Board recognizes as being incurred related to damages or costs as a result of the public interest whistleblowing, etc.

If the applicant for relief money has already obtained indemnity for damages or expenses incurred due to the public interest whistleblowing, the Commission should not pay relief money within the limit of the paid amount.

(4) Subrogation Claims

If the Commission has paid relief money, it subrogates the claims for damages or expenses within the limit of the paid amount.

5. Prohibition of Double Payment of Relief Money and Restitution of Duplicate Payments

(1) Prohibition of Double Payment of Relief Money

Any person who is to be paid rewards or relief money under this Act is not prohibited from applying for rewards or relief money in accordance with other acts.

(2) Restitution of Rewards and Relief Money

The Commission or an institution that has paid rewards or relief money under another act should recover the paid amounts if any of the following events has occurred:

Grounds for restitution of rewards and relief money (Article 29)

1. In the event that the applicant received the relief money through falsehood or some other unjustifiable means;
2. In the event that the relief money was paid in duplication for the same case; and
3. In the event that the relief money was paid by mistake, etc.

The Commission or an institution that has paid rewards or relief money under another act should notify the applicant for the rewards or relief money of the amount of money to be restituted. If the applicant fails to submit the payment, the Commission can collect the specified amount via the same methods through which national or local taxes in arrears are collected.

☆ Q&As

1. Are rewards guaranteed when filing public interest whistleblowing reports?

No. Whistleblowers can only request the payment of rewards from the Commission if their whistleblowing has directly resulted in the recovery of or increase in revenues for the central or local governments or related legal relations have been established.

The amended Act effective as of January 2016 stipulates that the payment of rewards is limited to internal whistleblowers who disclose wrongdoings of the organization to which they belong. As for public interest whistleblowing cases submitted on January 25, 2016 and afterwards, only internal whistleblowers are eligible to apply for rewards.

2. Why are rewards limited to internal public interest whistleblowers?

The reward system changed in 2014 to limit the number of reward payments to 10 cases a year per person. This systematic improvement resulted from criticism that public interest whistleblowing was being exploited as a means for profit. Also, the reports of professional bounty hunters had been targeting minor violations that were easy to catch, resulting in disproportionate suffering by small businesses. In the process of amending the Act in 2015, a consensus was formed that it was necessary to fundamentally eradicate the adverse effects of professional informers and to concentrate rewards to internal public interest whistleblowers who are most likely to be retaliated against due to their whistleblowing.

3. What incentives exist for external whistleblowers?

Reports from citizens and other external whistleblowers contribute to the strengthening of civil monitoring in areas where illegal activities frequently occur due to lack of administrative capacity. It is therefore essential to promote the reports of external whistleblowers. The Commission can grant financial awards to whistleblowers who have contributed to the promotion of the public interest at its discretion or as a result of recommendations from public institutions.

4. Can I receive unlimited rewards?

No. The maximum amount of reward is KRW 2 billion, and amounts are rounded down to the nearest 1,000 won of the final amount. If the calculated reward amount for an individual violation of the public interest case is less than KRW 200,000, the reward is not paid.

5. Are there cases where rewards are reduced or not paid at all?

In calculating reward amounts, rewards may be reduced or not paid in consideration of the following factors: (1) Accuracy of the report or credibility of evidentiary materials; (2) Whether the reported violation of the public interest had previously been disclosed through newspapers, broadcasts or other mass media; (3) Whether the public interest whistleblower committed any illegal acts related to the report; (4) The extent to which the public interest whistleblower has contributed to the eradication and prevention of violations of the public interest; and (5). Whether the public interest whistleblower had an obligation to report violations of the public interest or whether the report was related to that whistleblower's duties.

6. I reported a violation of the public interest directly to the company that committed the violation, but the company treated it unfairly. Can I receive rewards if I report the case to other public institutions that have been tasked with receiving public interest whistleblowing reports?

Yes. If the initial public interest whistleblowing report was made to the company in accordance with the reporting method and procedures of the Act on the Protection of Public Interest Whistleblowers, and the second whistleblowing resulted directly in the recovery of or increase in revenues for the central or local governments through the imposition of fines, penalty surcharges or fines for negligence, or in cases which the period for filing appeals against such imposition has expired and the imposition is finalized, the whistleblower can request the payment of rewards from the Commission.

7. What are the requirements for receiving relief money?

Public interest whistleblowers and cooperators, their relatives, or cohabitants can request the payment of relief money from the Commission if they have faced damages or spent expenses as a result of public interest whistleblowing for any of the following purposes:

- Expenses spent for physical or psychological treatment;
- Moving expenses caused by change of occupation, change of position, or transfer of workplace or secondment;
- Expenses spent for litigation procedures to reinstate the whistleblower's original state of life;
- Loss of wages during the period the disadvantageous measures were in effect; and
- Other significant economic losses.

8. Am I eligible to receive relief money for disadvantageous measures that were taken against me before I submitted a public interest whistleblowing report?

No. Eligibility for relief money exists when there is a significant causality between the public interest disclosure and the disadvantage. As such, you cannot receive relief money for disadvantages that occurred before the whistleblowing.

As an example, a worker working at a dye shop recognizes a violation of the public interest committed by the business owner consisting of the covert and illegal release of toxic wastewater at nights. If he reports the violation after he is unexpectedly dismissed, a causal relationship between the dismissal and the whistleblowing cannot be said to

exist. Thus, the worker is not eligible to receive relief money for the wages lost during the period of dismissal. However, if the worker has to spend physical or mental costs for treatment due to the assault or intimidation of the accused after the disclosure, the worker is eligible for relief money for those expenditures.

9. If I was dismissed and subsequently unemployed as a result of a public interest whistleblowing report, can I be compensated for all wages lost during that period in the form of relief money?

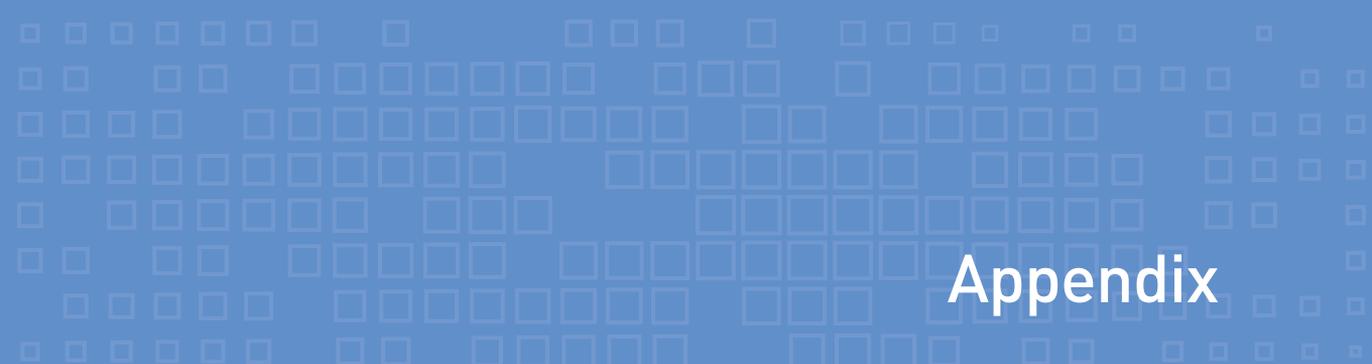
No. The amount of wage losses eligible to be compensated as relief money cannot exceed 36 months of wages. Thus, even if a whistleblower is dismissed for longer than that period, only 36 months of wages can be paid as relief. In addition, the amount of wage loss to be compensated by relief money is not to exceed twice the nationwide average wage, which is based on the daily laborers' average wage obtained through frequent nationwide surveys.

10. Can public servants who investigate violations of the public interest receive rewards if they themselves do the whistleblowing?

No. Government officials, who have engaged or now engage in the investigation of violations of the public interest, are not eligible to receive rewards for reports on cases related to their own investigations.

11. Can I only receive rewards and financial awards if I report the violation of the public interest directly to the Commission?

No. The Commission can pay rewards and financial awards regardless of the public institution that first receives the whistleblowing report. However, if a person who has already received rewards under other acts applies for rewards to the Commission for the same case, the ACRC deducts the difference from the total amount.

A decorative graphic consisting of a grid of light blue squares, some of which are missing or faded, creating a pattern that resembles a stylized world map or a digital grid. The squares are arranged in a roughly rectangular shape, with some gaps and varying opacities.

Appendix

Act on the Protection of Public Interest Whistleblowers and its Presidential Decree

Appendix

ACT ON THE PROTECTION OF PUBLIC INTEREST WHISTLEBLOWERS

Act No. 10472, Mar. 29, 2011

Amended by Act No. 12265, Jan. 14, 2014

Amended by Act No. 13443, Jul. 24, 2015

Amended by Act No. 14830, Apr. 18, 2017

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purposes of this Act are to contribute to the stability of people's livelihoods and to a more transparent and ethical social climate by protecting and supporting people who report violations of the public interest and others.

Article 2 (Definitions)

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

1. The term "violation of the public interest" means an act that infringes on the health and safety of the public, the environment, consumer interests and fair competition, and falls under any of the following items:
 - a. An act that is subject to any penal provisions defined in the Acts listed in an attached table;
 - b. An act that is subject to an administrative action determined by Presidential Decree, including the cancellation or suspension of a permit or license in accordance with the Acts listed on the attached table.

2. The term “public interest whistleblowing” means reporting, petitioning, informing, accusing or complaining that a violation of the public interest has occurred or is likely to occur, or providing an investigation clue of a violation of the public interest to a person who falls under any of the Subparagraphs in Article 6. However, if a case falls under any of the following items, it shall not be deemed a case of public interest whistleblowing:
 - a. In the event that the public interest whistleblowing was performed even though the whistleblower had known or could know that the information was false;
 - b. In the event that the whistleblower demanded money, goods, or special privileges within the context of the employment relationship in return for the information, or that the whistleblowing was done for some other illegal purpose.
3. The term “public interest whistleblowing, etc.” means public interest whistleblowing and actions of making a statement, testifying, or providing information in an examination, investigation or lawsuit regarding a public interest whistleblowing case, or in an investigation, lawsuit, etc. concerning the protection of the public interest whistleblower.
4. The term “whistleblower” means a person who performed a public interest whistleblowing activity.
5. The term “public interest whistleblower, etc.” refers to public interest whistleblowers and persons who made statements, testified, or provided information in an examination, investigation or lawsuit regarding a public interest whistleblowing case, or in an investigation, lawsuit, etc. concerning the protection of the public interest whistleblower.
6. The term “disadvantageous measures” means an action that falls under any of the following items:
 - a. Removal from office, release from office, dismissal or any other unfavorable personnel action equivalent to the loss of status at work;
 - b. Disciplinary action, suspension from office, reduction in pay, demotion, restriction on promotion and any other unfair personnel actions;
 - c. Work reassignment, transfer, denial of duties, rearrangement of duties or any other personnel actions that are against the whistleblower’s will;
 - d. Discrimination in the performance evaluation, peer review, etc. and subsequent discrimination in the payment of wages, bonuses, etc.;
 - e. The cancellation of education, training or other self-development opportunities; the restriction or removal of budget, work force or other available resources, the suspension of access to security information or classified information; the cancellation of authorization to handle security information or classified information; or any other discrimination or measure detrimental to the working conditions of the whistleblower;
 - f. Putting the whistleblower’s name on a black list as well as the release of such a blacklist, bullying, the use of violence and abusive language toward the whistleblower, or any other action that causes psychological or physical harm to the whistleblower;

- g. Unfair audit or inspection of the whistleblower's work as well as the disclosure of the results of such an audit or inspection;
 - h. The cancellation of a license or permit, or any other action that causes administrative disadvantages to the whistleblower;
 - i. The termination of a contract for goods or services, or any other measure that causes economic disadvantages to the whistleblower.
7. The term "internal public interest whistleblower" means any of the following public interest whistleblowers:
- a. A person who works or worked for a public institution, enterprise, corporation, organization, etc. that are reported;
 - b. A person who conducts or conducted affairs in accordance with a construction or service contract or any other contract entered into with a public institution, enterprise, corporation, organization, etc. that are reported;
 - c. Other persons prescribed by Presidential Decree.

Article 3 (Obligations of the Government)

- (1) The State or a local government shall strive to prevent, to stop the proliferation of violations of the public interest, and to protect public interest whistleblowers, etc.
- (2) Each enterprise shall endeavor to create conditions in which public interest whistleblowers, etc. in the workplace are protected.
- (3) The State or a local government may provide support or cooperation so that activities, etc. of enterprises to prevent violations of the public interest are revitalized.

Article 4 (The Establishment of Policy of the Anti-Corruption & Civil Rights Commission)

- (1) The Anti-Corruption and Civil Rights Commission (hereinafter referred to as the "Commission") shall establish policies regarding each of the following Subparagraphs to protect and support public interest whistleblowers, etc.:
 - 1. Matters concerning the reception, processing, etc. of public interest whistleblowing cases;
 - 2. Matters concerning the protection of confidentiality and personal safety of public interest whistleblowers, etc.;
 - 3. Matters concerning the prohibition of disadvantageous measures against public interest whistleblowers, etc. as well as the protection, etc. of these public interest whistleblowers, etc.;
 - 4. Matters concerning the payment of rewards and relief to public interest whistleblowers, etc.;
 - 5. Matters concerning the education, publicity, etc. of measures to protect public interest whistleblowers, etc.
- (2) Where necessary to efficiently formulate a policy prescribed in paragraph (1), the

Commission may conduct a fact-finding survey on the current status of the treatment of public interest whistleblowers and protective measures on organizations and agencies prescribed in the subparagraphs of Article 6.

(3) Necessary matters concerning methods, procedures, etc. for fact-finding survey prescribed in paragraph (2) shall be prescribed by Presidential Decree.

Article 5 (Relation to other Acts)

In the event that the applications of this Act and other Acts are in concurrence with the protection of public interest whistleblowers, etc., this Act shall prevail. If the application of other Acts is advantageous to the public interest whistleblowers, etc., then such other Acts shall be applied.

CHAPTER II PUBLIC INTEREST WHISTLEBLOWING

Article 6 (Public Interest Whistleblowing)

Any person may report a violation of the public interest that had already occurred or is likely to occur, to a person who falls under any of the following Subparagraphs:

1. The representative or employer of a person, institution, organization, company, etc. that may violate or has violated the public interest;
2. The administrative agency or supervisory body that has the authority to direct, supervise, regulate or investigate violations of the public interest (hereinafter referred to as “examination agency”);
3. Investigative agency;
4. The Commission;
5. Persons prescribed by Presidential Decree, to whom the reporting of public interest whistleblowing cases is deemed to contribute to preventing a violation of the public interest or to stopping the spread of the damages caused by a violation of the public interest.

Article 7 (Obligation of Public Officials to Report Public Interest Whistleblowing)

If any public official as described in Subparagraph 3 of Article 2 of the Act on Anti-Corruption and the Establishment and Management of the Anti-Corruption and Civil Rights Commission (hereinafter referred to as “public officials”), becomes aware of a violation of the public interest, he or she shall report it to an examination agency, investigative agency, or the Commission.

Article 8 (Method of Public Interest Whistleblowing)

(1) Any person who intends to file a public interest whistleblowing case shall submit a

statement in writing (including electronic documents. Hereinafter referred to as the “written report”), with attachment of evidence on the acts of violation of the public interests to any person in the Article 6 Subparagraphs. The statement shall include the information described in each of the following Subparagraphs:

1. The name, resident registration number, address, contact numbers, etc. of the whistleblower;
 2. The name of the person who violated public interest;
 3. A factual description of the violation of the public interest;
 4. The purport and reason of the public interest whistleblowing.
- (2) Notwithstanding Paragraph 1, in the event that there are specific circumstances wherein a written report cannot be submitted, an oral statement may be presented in its stead. In this case, evidence, etc. shall be submitted as well.
- (3) A person who receives an oral statement in pursuant to Paragraph 2 shall make a written report of what the public interest whistleblower has said, repeat the contents of the written report to the public interest whistleblower, and ensure that the public interest whistleblower signs or affixes his/her seal on the written report.

Article 9 (Confirmation and Transfer, etc. of Report)

- (1) The Commission, upon receipt of a public interest whistleblowing case, may confirm any information necessary to specify the case, such as personal details of the whistleblower, and the details and purport of the public interest whistleblowing.
- (2) The Commission may request the public interest whistleblower to submit necessary material insofar as it is needed for ascertaining the truth of the matters specified in Paragraph 1.
- (3) The Commission shall transfer a public interest whistleblowing case to a relevant examination agency or investigative agency immediately after completing confirmation pursuant to Paragraph 2, and shall notify the public interest whistleblower of the said fact.
- (4) The examination agency or investigative agency, to which the public interest whistleblowing case was transferred as described in Paragraph 3, shall notify the Commission of the results of the examination or investigation after the examination or investigation is completed. Then, the Commission shall provide the public interest whistleblower with a summary of the examination or investigation results.
- (5) Where the Commission, after receiving notification of the investigation results pursuant to Paragraph (4), deems it necessary to prevent the spread and recurrence of violations of the public interest, it may present its opinion through the following measures under the relevant acts and statutes, along with necessary measures taken by the relevant investigative agency pursuant to Article 10 (4) in accordance with the results of investigation:

1. Suspension of the manufacture or sale of, or recall or destruction of products;
 2. Suspension of business, suspension of qualification, etc.;
 3. Other measures necessary for elimination, prevention, etc. of the relevant violations of the public interest.
- (6) Any public interest whistleblower, in the receipt of notification prescribed in Paragraph 4, may file an objection to the results of examination or the results of investigation with the Commission, as prescribed by Presidential Decree. (Newly Inserted by Act No. 13443, Jul. 24, 2015)
- (7) Where the Commission deems an examination conducted by an examination agency or investigation conducted by an investigative agency insufficient, or a formal objection prescribed in paragraph (6) reasonable, it may request an examination agency to conduct a re-examination or investigative agency to conduct a re-investigation. (Newly inserted by Act No. 13443, Jul. 24, 2015)
- (8) An examination agency requested to conduct a re-examination or investigative agency requested to conduct a re-investigation shall notify the Commission of the results of re-examination or re-investigation after it completes the re-examination or re-investigation.

Article 9-2 (Providing Information on Protection and Support)

The Commission shall draw up and implement a plan to provide information related to the following items.

1. Matters concerning keeping confidentiality pursuant to Article 12
2. Matters concerning a request for personal protection measures pursuant to Article 13
3. Matters concerning a request for personnel measures pursuant to Article 16
4. Matters concerning an application for protective measures pursuant to Article 17
5. Matters concerning an application for the prohibition of disadvantageous measures pursuant to Article 22
6. Matters concerning an application for rewards pursuant to Article 26
7. Matters concerning an application for financial awards pursuant to Article 26-2
8. Matters concerning a request for relief money pursuant to Article 27 (Newly Inserted by Act No. 14830, Apr. 18, 2017)

Article 10 (Processing of Public Interest Whistleblowing Case)

- (1) The examination agency, either upon direct receipt of a public interest whistleblowing case or receipt of a public interest whistleblowing case transferred from the Commission, shall conduct necessary examination about the details thereof.
- (2) The examination agency may not launch or may discontinue the examination if the public interest whistleblowing case falls under any of the following Subparagraphs:
 1. If the contents of the public interest whistleblowing case are clearly deemed to be

- false;
2. In the event that the personal information of the public interest whistleblower is not available;
 3. In the event that the public interest whistleblower fails to supplement his/her written report or supporting materials within a preset period after receiving at least two requests to do so;
 4. If a public interest whistleblower reports again, without any justifiable reason, a case for which he/she had already been notified of the processing result thereof;
 5. In the event that the contents of the public interest whistleblowing case were publicized through the mass-media, etc., and that there was no new evidence other than the facts that had already been disclosed;
 6. In the event that an examination into the violation of the public interest had already begun or had already been completed in accordance with some other Act(s) and subordinate statute(s);
 7. In the event that there is no reason for examination as prescribed by Presidential Decree.
- (3) In the event that an examination agency decides not to conduct an investigation under the provisions of Paragraph 2, or discontinue such an investigation, it shall notify the public interest whistleblower of the fact without delay.
 - (4) When an examination agency finishes an examination into a public interest whistleblowing case, it shall take all necessary measures depending on the investigation results and notify the public interest whistleblower of the results.
 - (5) Employees, etc. of institutions that received a public interest whistleblowing case under Article 6 shall not disclose the contents of the report, including personal information on the whistleblowee, until an investigation into the case reveals that a violation of the public interest has occurred.
 - (6) In the event that an examination agency has received, either directly, or indirectly through transfer or referral, a public interest whistleblowing case outside its jurisdiction, it shall transfer the case to a competent examination agency and shall notify the public interest whistleblower of the fact thereof.

Article 10-2 (Construction and Operation of Integrated Information System for Public Interest Whistleblowing)

- (1) The Commission may construct and operate an integrated information system that manages the current status of the receipt and treatment of public interest reports (hereinafter referred to as “integrated information system”).
- (2) Where necessary to construct and operate an integrated information system, the Commission may request organizations and agencies stated in the Subparagraphs of Article 6 to provide data and information on the receipt and treatment of public interest reports, and may retain and use such data and information within the scope of

purposes of the provision thereof. In such cases, any person, in the receipt of a request for providing data and information, shall comply with such request unless there is a compelling reason not to do so.

- (3) The Commission shall take measures necessary to protect data and information it retains and uses pursuant to Paragraph 2.

CHAPTER III PROTECTION OF PUBLIC INTEREST WHISTLEBLOWERS, ETC.

Article 11 (Omission, etc. of Written Personal Information)

- (1) Article 7 and Articles 9 through 12 of the Act on the Protection of Reporters, etc. of Specific Crimes shall apply mutatis mutandis to the investigation and criminal procedures in the event that justifiable reasons exist that the public interest whistleblower, etc., his/her relatives, or his/her cohabitants have suffered or could suffer damages because of the public interest whistleblowing, etc.
- (2) The public interest whistleblower, etc., and/or his/her legal representatives may request the examination agency or investigative agency to take measures as stipulated in Paragraph 1. In this event, the examination agency or investigative agency shall comply with this request unless there are exceptional circumstances otherwise.

Article 12 (Confidentiality Obligation for Public Interest Whistleblower, etc.)

- (1) No person with the knowledge of the fact that someone is a public interest whistleblower, etc., shall tell, disclose to or publicize to any third party personal information concerning the public interest whistleblower, etc., or other facts that infer the identity of the public interest whistleblower, etc. However, this provision shall not apply provided that the public interest whistleblower, etc., gives his/her consent to the revelation of such information.
- (2) Where personal information about a public interest whistleblower, etc. or the fact that infer the identity of the public interest whistleblower, etc. is disclosed or publicized, in violation of Paragraph 1, the Commission may confirm how personal information or the fact is disclosed or publicized. (Newly Inserted by Act No. 13443, Jul. 24, 2015)
- (3) Where the Commission deems it necessary to confirm circumstances prescribed in Paragraph (2), it may request an agency to which the public interest whistleblower, etc. filed a public interest whistleblowing, etc. to submit relevant data or state its opinion. In such cases, the relevant agency that receives a request for submitting data or stating its opinion shall comply with such request unless there is a compelling reason not to do so.
- (4) The Commission may request a relevant disciplinary officer to take disciplinary action against a person who has told, disclosed to or publicized to any third party personal information concerning the public interest whistleblower, etc., or other facts that infer

the identity of the public interest whistleblower, etc., in violation of Paragraph 1.

Article 13 (Protection of Personal Safety)

- (1) The public interest whistleblower, etc., his/her relatives or cohabitants may request the Commission to take protective measures for their personal safety (hereinafter referred to as “personal protection measures”) in the event that the public interest whistleblower, etc., his/her relatives or cohabitants have faced or are likely to face serious danger to their lives or persons. In such an event, the Commission may, if deemed necessary, request the chief of the police station or agency to provide the necessary personal protection measures.
- (2) The chief of the police station or agency who has received a request for the personal protection measures in accordance with Paragraph 1 shall provide said measures under the conditions as prescribed by Presidential Decree without delay.

Article 14 (Mitigation and Remission of Culpability, etc.)

- (1) If public interest whistleblowing, etc. leads to the detection of a crime perpetrated by the public interest whistleblower, etc., the punishment of such person or persons may be mitigated or remitted.
- (2) Where a person who has the authority to take disciplinary action against a public interest whistleblower, etc. takes disciplinary action against him/her or a person who has the authority to take administrative measures against a public interest whistleblower, etc. takes unfavorable administrative measures against him/her by reason of an offense, etc. discovered in relation to a public interest whistleblowing, etc., the Commission may request the person who has the authority to take disciplinary action or the person who has the authority to take administrative measures to mitigate or remit such disciplinary action or administrative measures. In such cases, the person who receives a request shall comply with such request unless there is just cause.
- (3) In the event that the public interest whistleblowing, etc. contains confidential work-related information, the public interest whistleblower, etc. shall be deemed not to have violated his/her professional confidentiality obligation, notwithstanding the provisions of some other Act(s) and subordinate statute(s), collective agreements or the employment rules, etc.
- (4) Even in case where a person reported suffers a loss due to a public interest report, etc., he/she shall not claim damages against the public interest whistleblower, etc.: Provided, That where the public interest whistleblower falls under Subparagraph 2 (a) and (b) of Article 2, he/she may claim damages.
- (5) The provisions prohibiting or restricting public interest whistleblowing, etc. in a collective agreement, employment agreement, supply contract, etc. shall be deemed

invalid.

- (6) Where the Commission deems it necessary to request mitigation or remission of disciplinary action or administrative measures under Paragraph 2, the Commission may request a person who has the authority to take disciplinary action or a person who has the authority to take administrative measures, or an agency to which the public interest whistleblower, etc. made a public interest report, etc. to submit relevant data or state his/her or its opinion. In such cases, the relevant agency that receives a request for submitting data or stating its opinion shall comply with such request unless there is a compelling reason not to do so.

Article 15 (Prohibition of Disadvantageous Measures)

- (1) No person shall implement any disadvantageous measure against the public interest whistleblower, etc. in retaliation for his/her public interest whistleblowing, etc.
- (2) No person shall obstruct the act of the public interest whistleblowing, etc. or force the public interest whistleblower, etc. to rescind his/her case.

Article 16 (Preferential Consideration in Personnel Affairs)

In the event that the public interest whistleblower, etc. requests personnel action such as change of occupation, change of position, transfer out, transfer in, or temporary dispatch, then his/her employer or personnel authority shall give preferential consideration to the requests if deemed reasonable.

Article 17 (Request for Protective Measures)

- (1) When the public interest whistleblower, etc. is subjected to disadvantageous measures as a result of his/her public interest whistleblowing, etc., (including cases where the public interest violation report was made after the whistleblower was subjected to disadvantageous measures while preparing for the public interest whistleblowing by collecting evidence, etc.), the public interest whistleblower, etc. may request the Commission to take the necessary measures to recover his/her state of life or to invalidate discriminatory action against him/her (hereinafter referred to as “protective measures”).
- (2) A request for protective measures shall be made within three months from the date the disadvantageous measures were taken (or the date when the disadvantageous measures ended if they remained in effect for a period). However, should the public interest whistleblower, etc. be unable to apply for protective measures within three months due to force majeure such as natural disasters, war, emergency or others, he/she may submit his/her request within 14 days from the date on which the cause thereof no longer exists (in cases where the request is made in a foreign country, the period shall be 30 days).

- (3) In the event that some other Act(s) and subordinate statute(s) prescribe administrative remedies for disadvantageous measures implemented in retaliation for public interest whistleblowing, etc., the public interest whistleblower, etc. may request a remedy in accordance with the proceedings of the Act(s) and subordinate statutes. However, this provision shall not apply provided that the public interest whistleblower, etc. has already requested protective measures in accordance with Paragraph 1 of this Article.
- (4) Other matters concerning the method and procedures of request for protection measures shall be provided for by Presidential Decree.

Article 18 (Rejection of Request for Protection)

The Commission may decide to reject a request for protection that falls under any of the following Subparagraphs:

1. If the request was made by someone other than the public interest whistleblower, etc. or an agent pursuant to Article 12, Paragraph 1 of the Administrative Procedures Act;
2. If the relevant public interest whistleblowing falls under any of the Subparagraphs of Article 10, Paragraph 2;
3. If the request was made after the period prescribed in Article 17, Paragraph 2;
4. In the event that the applicant resubmitted a request for protective measures that the Commission had already dismissed, rejected, or decided to take under Article 20, Paragraph 1;
5. In the event that the request was made again in relation to a case on which the Commission had recommended protective measures be applied in accordance with Article 20, Paragraph 2;
6. In the event that a request for a remedy has been filed under some other Act(s) and subordinate statute(s);
7. In the event that a remedy was already provided in accordance with the remedy procedures under some other Act(s) and subordinate statute(s).

Article 19 (Examination into Request for Protective Measures)

- (1) The Commission, upon receipt of a request for protective measures, shall immediately examine whether the public interest whistleblower, etc. was subjected to disadvantageous measures in retaliation for his/her public interest whistleblowing. In this event, the Commission may notify an examination agency of the fact that the public interest whistleblower, etc. had applied for protective measures.
- (2) The Commission may request any person who falls under any of the following Subparagraphs to submit relevant material, if deemed necessary for the examination of the request:
 1. The person who requested protective measures (hereinafter referred to as

- “applicant”);
2. The person who conducted the disadvantageous measures;
 3. A reference person;
 4. Relevant institutions, relevant organizations, or companies.
- (3) The Commission may request persons who fall under Paragraph 2, Subparagraphs 1 through 3 to either appear before the Commission to make an oral statement or to submit a written statement.
- (4) The Commission shall provide all relevant parties with sufficient opportunities to vindicate themselves during the processes of examination.
- (5) The notified examination agency pursuant to the latter part of Paragraph 1 shall cooperate with the Commission in relation to the examination into the request for protective measures under provisions prescribed by Presidential Decree.

Article 20 (Decision to Take Protective Measures, etc.)

- (1) In the event that an examination finds the applicant had been subjected to disadvantageous measures (excluding those described in Article 2, Subparagraph 6, Items h and i) for his/her act of public interest whistleblowing, etc., the Commission shall decide to require the person who implemented such disadvantageous measures to take each of the following protective measures within a period of 30 days (hereafter referred to as “decision to take protective measures”). In the event that the examination does not find that the applicant had been subjected to disadvantageous measures as a result of his/her public interest whistleblowing, etc., the Commission shall decide to dismiss the request for protective measures (hereafter referred to as “decision to dismiss”).
1. Measures to recover his/her state of life;
 2. Payment of remuneration, etc. that has been delayed or has been paid discriminately, including interest;
 3. The cancellation or prohibition of other disadvantageous measures.
- (2) In the event that an examination finds the applicant had been subjected to disadvantageous measures described in Article 2, Subparagraph 6, Items h and i for his/her act of public interest whistleblowing, etc., the Commission may decide to recommend that the person who implemented the disadvantageous measures take the protective measures, within a period of 30 days, necessary to enable a permit, license, contract, etc. to remain in effect (hereafter referred to as “recommendation”).
- (3) The decision to reject a request for protective measures under Article 18, the decision to take protective measures and decision to dismiss under Paragraph 1, and the recommendation under Paragraph 2 shall be made in writing, and both the applicant and the person who implemented disadvantageous actions shall be notified of such decisions or recommendations.

- (4) In the event of a decision to take protective measures, the Commission may request a relevant disciplinary authority to take disciplinary action against the person who implemented disadvantageous actions against the public interest whistleblower, etc. as a result of his/her public interest whistleblowing, etc.
- (5) All necessary matters with regard to the establishment of payment standards and calculation methods for delayed or discriminated remuneration, etc. under Paragraph 1, Subparagraph 2 shall be defined by Presidential Decree.

Article 20-2 (Special Protective Measures)

- (1) Where it is reasonable to believe a violation of the public interest takes place at the time when an internal public interest whistleblower files a report, the Commission may decide to take protective measures.
- (2) Articles 20, 21, and 21-2 shall apply mutatis mutandis to a decision to take protective measures under Paragraph (1).

Article 21 (Confirmation of Decision to Take Protective Measures, etc.)

- (1) The applicant and the person who was found to have implemented disadvantageous measures may file an administrative proceeding, under the conditions as prescribed in the Administrative Litigation Act, against the decision to take protective measures, decision to dismiss or decision to reject within 30 days from the day the notification of such decisions was received.
- (2) The decision to take protective measures, decision to reject, or decision to dismiss is confirmed when an administrative proceeding is not filed within the period prescribed in Paragraph 1.
- (3) An administrative appeal under the Administrative Appeals Act shall not be filed against a decision to take protective measures, decision to reject or decision to dismiss.
- (4) The validity of a decision to take protective measures, decision to reject, or decision to dismiss shall not be suspended by instituting administrative litigation under Paragraph 1.

Article 21-2 (Charges for Compelling Compliance)

- (1) The Commission shall impose a charge for compelling compliance of up to 20 million won on a person who fails to take protective measures by the due date after he/she receives a decision to take protective measures under Article 20 (1): Provided, That the foregoing shall not apply to the State or local governments.
- (2) The Commission shall notify in advance its intention to impose and collect a charge for compelling compliance in writing no later than 30 days before it imposes the charge for compelling compliance under Paragraph 1.
- (3) Where the Commission imposes a charge for compelling compliance under

Paragraph 1, it shall impose such charge in writing, specifying the amount of the charge for compelling compliance, a reason for the imposition thereof, the deadline for the payment thereof, the receiving institution, methods for filing an objection, an agency with which an objection is filed.

- (4) The Commission may repeatedly impose and collect a charge for compelling compliance under Paragraph 1 until protective measures are implemented within upto twice a year from the date on which a decision to take protective measures is made. In such cases, it shall not impose and collect the charge for compelling compliance for more than two years.
- (5) Where a person who has taken unfavorable measures takes protective measures, the Commission shall not impose a new charge for compelling compliance, but shall collect the charge for compelling compliance already imposed.
- (6) Where a person liable to pay a charge for compelling compliance fails to pay such charge for compelling compliance by the deadline for payment, the Commission shall urge him/her to pay the charge for compelling compliance within a fixed period, and where he/she fails to pay the charge for compelling compliance under Paragraph 1 within the fixed period, it may collect the charge for compelling compliance according to examples of the disposition of unpaid national taxes.
- (7) Necessary matters concerning guidelines for imposition, procedures for collection, etc. of charges for compelling compliance under Paragraph 1 shall be prescribed by Presidential Decree.

Article 22 (Request for the Prohibition of Disadvantageous Measures)

- (1) A public interest whistleblower, etc. may request the Commission to take measures to prohibit disadvantageous measures in the event that it is highly likely that disadvantageous measures will be implemented in retaliation for his/her public interest whistleblowing, etc. (including his/her preparations for the public interest whistleblowing such as collecting evidence of a violation of the public interest).
- (2) When the Commission receives a request for the prohibition of disadvantageous measures, it shall begin an examination to determine whether the disadvantageous measures that the public interest whistleblower, etc. is likely to face are the result of his/her public interest whistleblowing, etc.
- (3) Articles 18, 19 and 20, Paragraphs 1 through 3 shall apply mutatis mutandis to a request for the prohibition of disadvantageous measures.
- (4) The Commission shall recommend that a person whom the examination has found to have an intention to implement disadvantageous measures against the public interest whistleblower, etc. for his/her public interest whistleblowing, etc. not implement such measures.

Article 23 (Presumption of Disadvantageous Measures)

Should any of the events described in the following Subparagraphs occur, it shall be presumed that the public interest whistleblower, etc. has been subjected to disadvantageous measures in retaliation for a result of his/her public interest whistleblowing, etc.:

1. In the event that there is an attempt to identify the public interest whistleblower, etc., obstruct his/her public interest whistleblowing, etc. or force him or her to rescind his/her case;
2. In the event that a disadvantageous measure was implemented within two years from the day the public interest whistleblowing, etc. was performed;
3. In the event that disadvantageous measures were implemented even after the recommendation not to implement disadvantageous measures under Article 22, Paragraph 4 was received.

Article 24 (Reconciliation Recommendation, etc.)

- (1) In the event that the Commission receives a request for protective measures, it may recommend reconciliation or present a reconciliation proposal with regard to protective measures, compensation for damages, etc., either ex officio or upon request of the concerned parties, before it decides to take protective measures, reject the case or give a recommendation. In such an event, the reconciliation proposal shall not contain provisions that violate the purpose of this Act.
- (2) The Commission shall listen sufficiently to the opinions of the concerned parties prior to making its reconciliation proposal.
- (3) In the event that the concerned parties agree to accept the reconciliation proposal of the Commission, the Commission shall draw up a reconciliation protocol that shall be signed or sealed by the concerned parties and by all the members of the Commission who have been involved in the reconciliation process.
- (4) In the event that a reconciliation protocol is written in pursuant to Paragraph 3, it is deemed that the concerned parties have reached an agreement, of which the content is equivalent to the protocol, and the protocol has the same effect as a judicial reconciliation under the Civil Procedure Act.

Article 25 (Request for Cooperation, etc.)

- (1) An institution or the Commission that has received a case of public interest whistleblowing under Article 6 may request a relevant administrative agency, counseling center, medical institution and other relevant organizations for cooperation or assistance as needed for the examination or disposition of the case or for taking protective measures.
- (2) The relevant administrative agency, counseling center, medical institution and other

relevant organizations that have received a request for cooperation under Paragraph 1 shall accept it unless there is a justifiable reason for them to decline.

Article 25-2 (Special Cases of Reporting on Political Campaigns, etc.)

- (1) Where any public official prescribed in the State Public Officials Act and the Local Public Officials Act (excluding an employee of the National Intelligence Service under Article 2 of the Act on Staff of National Intelligence Service; hereinafter in this Article referred to as "State public official, etc.") is instructed to perform any of the following acts, he/she may file an objection in accordance with procedures prescribed by Presidential Decree, and where such instruction is not corrected, he/she may refuse to execute such duties:
 1. Political campaign prescribed in Article 65 of the State Public Officials Act;
 2. Political campaign prescribed in Article 57 of the Local public Officials Act;
 3. Involvement in politics prescribed in Article 94 (1) of the Military Criminal Act.
- (2) Where any State public official, etc. reports the fact that he/she is instructed to perform an act falling under the subparagraphs of paragraph (1) to an investigative agency for the sole purpose of public interest when such instruction is not corrected after he/she follows procedures for filing an objection prescribed in paragraph (1), Article 127 of the Criminal Act and Article 80 of the Military Criminal Act shall not apply thereto.
- (3) No person shall give a disadvantage to a reporter prescribed in paragraph (2) by reason of a report he/she has filed.

CHAPTER IV REWARDS, AWARDS AND RELIEF MONEY

Article 26 (Rewards)

- (1) The internal public interest whistleblower may request the Commission to pay rewards if his/her public interest whistleblowing has resulted directly in the recovery of or increase in revenues for the State or a local government through any of the following Subparagraphs, or the legal relations in that matter are established.
 1. Penalties or disposition of notification;
 2. Confiscation or imposition of additional charges;
 3. Imposition of fines for negligence or charges for compelling the compliance;
 4. Imposition of penalty surcharges (including the cancellation or suspension of a permit, license, etc. when there is the possibility to pay a penalty surcharge in lieu of the cancellation or suspension of a permit, license, etc.);
 5. Other dispositions or judgments as prescribed by Presidential Decree.
- (2) In the event that the Commission is requested to pay rewards under Paragraph 1, it shall pay the rewards after undergoing a deliberation and resolution of the

Reward Deliberation Board set up in accordance with Article 69 of the Act on Anti-Corruption and the Establishment and Operation of the Anti-Corruption and Civil Rights Commission (hereafter referred to as “Reward Deliberation Board”) under the conditions as prescribed by Presidential Decree. However, in the event that the public interest whistleblowing case was filed by any person who is obliged to report a violation of the public interest to a relevant administrative agency or by any public official in connection with his/her duties, such rewards can be reduced or not paid.

- (3) The application for the payment of rewards under Paragraph 1 shall be filed within two years from the date the applicant became aware of the establishment of the legal relations regarding the recovery of or increase in revenues for the central or local governments, or within five years from the date the legal relations in that matter are established. However, provided that a justifiable reason exists, this provision shall not apply.
- (4) The Commission shall, upon receipt of an application for rewards filed under Paragraph 1, determine whether to pay such rewards and the amount of the rewards, if any, to be paid, within 90 days from the date that the application was made, unless there are exceptional circumstances otherwise.
- (5) The Commission may request the applicant for rewards, reference persons, relevant agencies, etc. to attend the Commission, state their opinions or submit relevant material if the examination is deemed necessary with regard to the payment of rewards. The applicant for rewards, reference persons, relevant agencies, etc. shall comply with such a request from the Commission unless there are exceptional circumstances otherwise.
- (6) If the Commission decides to pay the rewards under Paragraph 4, it shall immediately notify the applicant and relevant local governments (only when the rewards were paid on the grounds that the local governments recovered or increased their revenues or that the legal relationship thereon was confirmed) of the said fact.

Article 26-2 (Financial Awards)

- (1) Where a public interest whistleblowing, etc. brings substantial property benefits to or prevents loss for the State or a local government, or promotes the public interest in any of the following cases, the Commission may provide a financial award: Provided, That it shall not provide a financial award that overlaps with rewards prescribed in Article 26 or other statutes:
 1. Where a person who has committed a violation of the public interest is granted a stay of prosecution, probation, stay of execution, or sentence;
 2. Where administrative measures that require specific actions, such as an order to take corrective action or prohibition are taken;
 3. Where a public interest whistleblowing, etc. contributes to the improvement

- of systems, such as the enactment or amendment of relevant statutes for the prevention of violations of the public interest;
4. Other grounds prescribed by Presidential Decree.
- (2) Matters concerning guidelines, public interest reports eligible and procedures for the payment of financial awards prescribed in paragraph (1) shall be prescribed by Presidential Decree.

Article 27 (Relief Money)

- (1) The public interest whistleblower, etc., his/her relatives, or his/her cohabitants may request the Commission to pay relief money in the event that they have faced damages that fall under any of the following Subparagraphs or spent money on the grounds of his/her public interest whistleblowing, etc.
1. Expenses spent for physical or psychological treatment;
 2. Moving expenses caused by change of occupation, change of position, or transfer of workplace or secondment;
 3. Expenses spent for litigation procedures to reinstate his/her original state of life;
 4. Losses in wages during the period the disadvantageous measures were in effect;
 5. Other significant economic losses (excluding Items h and i in Article 2, Subparagraph 6).
- (2) The Commission, upon the receipt of a request for relief money pursuant to Paragraph 1, may pay the relief money after undergoing a deliberation and resolution of the Reward Deliberation Board under the conditions as prescribed by Presidential Decree.
- (3) The Commission may examine the applicant for relief money and some other interested party with regard to the payment of the relief money or refer to an administrative agency or some other related organization(s) regarding necessary matters. In this case, the administrative agency or related organization shall accept such an examination unless there are exceptional circumstances otherwise.
- (4) In the event that the public interest whistleblower, etc., his/her relatives, or his/her cohabitants already obtained indemnity for damages or expenses that fall under any of Subparagraphs in Paragraph 1, the Commission shall not pay the relief money within the limit of the paid amount.
- (5) In the event that the Commission has paid the relief money, it shall subrogate the claim, held by the person who has received the relief money, for damages or expenses that fall under any of Subparagraphs in Paragraph 1, within the limit of the paid amount.

Article 28 (Prohibition of Overlapping Payment of Rewards and Relief Money, etc.)

- (1) No person who will receive rewards pursuant to Article 26 or relief money pursuant to Article 27 shall be prohibited from claiming rewards or relief money according to other statutes.

- (2) Where a person who will receive rewards or relief money receives financial awards under this Act, rewards or relief money, etc. according to other statutes for the same reason, if the amount of such rewards, financial awards or relief money is equal to or exceeds the amount of rewards or relief money that he/she will receive according to this Act, the Commission shall not pay rewards or relief money, and if the amount of such rewards, financial awards or relief money is less than the amount of rewards or relief money that he/she will receive according to this Act, the Commission shall deduct such amount and determine the amount of rewards or relief money.
- (3) Where a person who will receive rewards or relief money according to other statutes received rewards, financial awards or relief money for the same reason under this Act, the Commission shall deduct the amount of such rewards, financial awards or relief money received, and determine the amount of rewards or relief money according to other statutes.

Article 29 (Restitution of Rewards and Relief Money, etc.)

- (1) The Commission or an institution that has paid rewards or relief money under some other Act(s) and subordinate statute(s) shall notify the applicant for the rewards or relief money of the amount of money to be restituted in the event that a fact that falls under any of the following Subparagraphs is found, and the applicant shall repay the amount;
 1. In the event that the applicant for the rewards or relief money received the rewards or relief money through falsehood or some other unjustifiable means;
 2. In the event that the rewards or relief money was paid in violation of Article 28, Paragraph 2 or 3;
 3. In the event that the rewards or relief money was paid by mistake, etc.
- (2) The local government that was notified of the decision of payment of rewards by the Commission under Article 26, Paragraph 6 shall reimburse the Commission for the rewards that had been paid to the applicant by the Commission within three months from the date the notification was received.
- (3) In the event that the applicant for rewards or relief money who is obliged to retribute the rewards or relief money or a local government that is obliged to reimburse the Commission in accordance with Paragraphs 1 and 2 does not submit the payment by the deadline, the Commission may collect the amount of money in the same way as that national or local taxes in arrears are collected.

CHAPTER V PENAL PROVISIONS

Article 30 (Penal Provisions)

- (1) Any person who falls under any of the following Subparagraphs shall be punished by imprisonment for not more than three years or by a fine not exceeding 30 million won:
 1. A person who has disclosed the contents of a report, including personal information on the person reported, in violation of Article 10, Paragraph 5;
 2. Any person who has told, disclosed to or publicized to any third party personal information concerning the public interest whistleblower, etc., or other facts that infer the identity of the public interest whistleblower, etc. in violation of Article 12, Paragraph 1.
- (2) Any person who falls under any of the following Subparagraphs shall be punished by imprisonment for not more than two years or by a fine not exceeding 20 million won:
 1. A person who implemented disadvantageous measures described in Article 2, Subparagraph 6, Item a against the public interest whistleblower, etc. in violation of Article 15, Paragraph 1;
 2. A person who did not carry out the decision to take protective measures that had been confirmed under Article 21, Paragraph 2 or by an administrative proceeding.
- (3) Any person who falls under any of the following Subparagraphs shall be punished by imprisonment for not more than one year or a fine not exceeding 10 million won;
 1. A person who implemented disadvantageous measures that fall under any of Items b through g in Article 2, Subparagraph 6 against the public interest whistleblower, etc. in violation of Article 15, Paragraph 1;
 2. A person who obstructed the public interest whistleblowing, etc. or forced the public interest whistleblower to rescind his/her case, etc. in violation of Article 15, Paragraph 2.

Article 30-2 (Joint Penalty Provisions)

Where the representative of a corporation, or an agent or employee of, or any other person employed, by a corporation or an individual commits an offense under Article 30 in connection with the business affairs of such corporation or individual, not only shall such offender be punished, but also the corporation or individual shall be punished by a fine under the relevant provisions: Provided, That the foregoing shall not apply where such corporation or individual have not been negligent in giving due attention to and supervision concerning the relevant duties to prevent such offense.

Article 31 (Administrative Fines)

- (1) A person who refused to submit relevant materials, attend the Commission or state his/her opinions in violation of Article 19, Paragraph 2 or 3 (including when Article

22, Paragraph 3 is applied mutatis mutandis) is subject to an administrative fine not exceeding 30 million won.

(2) A person who fails to comply with a decision to take special protective measures prescribed in Article 20-2 shall be subject to an administrative fine of up to 20 million won.

(3) The administrative fine under Paragraphs 1 and 2 is imposed and collected by the Commission under the conditions as prescribed by Presidential Decree.

ADDENDA

〈Act No. 10472, Mar. 29, 2011〉

Article 1 (Enforcement Date)

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

Article 2 (Applicability)

This act shall be applied to the first case of public interest whistleblowing filed after this Act enters into force.

ADDENDUM

〈Act No. 12265, Jan. 14, 2014 〉

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

ADDENDA

〈Act No. 13443, Jul. 24, 2015〉

Article 1 (Enforcement Date)

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

Article 2 (Applicability concerning Treatment of Content of Reports)

The amended provisions of Article 9 (5) through (8) shall also apply to public interest reports under examination or investigation after being passed on to an examination agency or investigative agency at the time this Act enters into force.

Article 3 (Applicability concerning Charges for Compelling Compliance)

The amended provisions of Article 21-2 shall apply beginning with the first person who gives a disadvantage to a public interest whistleblower, etc. after this Act enters into force.

Article 4 (Applicability concerning Rewards)

The amended provisions of Article 26 shall apply beginning with the first public interest report filed after this Act enters into force.

Article 5 (Applicability concerning Financial Awards)

The amended provisions of Article 26-2 shall also apply to public interest reports filed before this Act enters into force.

[Attached Table]

Acts Related to the Violation of the Public Interest (refer to Subparagraph 1 of Article 2)

1. Fair Transactions in Franchise Business Act
2. Cattle and Beef Traceability Act
3. Act on the Management and Use of Livestock Excreta
4. Act on the Prevention of Contagious Animal Diseases
5. Prevention of Contagious Diseases Act
6. Personal Information Protection Act
7. Public Order in Open Ports Act
8. Framework Act on Health Examination
9. Functional Health Foods Act
10. Act on the Employment Improvement, etc. of Construction Workers
11. Construction Machinery Management Act
12. Construction Technology Promotion Act
13. Framework Act on the Construction Industry
14. Construction Waste Recycling Promotion Act
15. Act on Sale of Building Units
16. Building Act
17. Certified Architects Act
18. Quarantine Act
19. Game Industry Promotion Act
20. Bicycle and Motorboat Racing Act
21. Security Services Industry Act
22. Measures Act
23. Senior-Friendly Industry Promotion Act
24. High-Pressure Gas Safety Control Act
25. Employment Insurance Act
26. Aggregate Extraction Act
27. Act on the Establishment, Management, etc. of Spatial Data
28. Public Performance Act
29. Public Waters Management and Reclamation Act
30. Licensed Real Estate Agents Act
31. Public Health Control Act
32. Tourism Promotion Act
33. Mining Safety Act
34. Mining Damage Prevention and Compensation Act

35. Traffic Safety Act
36. Act on Promotion of the Transportation Convenience of Mobility Disadvantaged Persons
37. National Technical Qualifications Act
38. National Health Promotion Act
39. National Health Insurance Act
40. National Nutrition Management Act
41. National Sports Promotion Act
42. State Forest Administration and Management Act
43. Act on Combating Bribery of Foreign Public Officials in International Business Transactions
44. National Land Planning and Utilization Act
45. Tramway Transportation Act
46. Framework Act on Labor Welfare
47. Act on Water Management of and Resident Support in the Geum River Basin
48. Financial Holding Companies Act
49. Act on Prevention of Disasters in Steep Slope Lands
50. Act on Water Management and Resident Support in the Nakdong River Basin
51. Fishing Management and Promotion Act
52. Inland Water Fisheries Act
53. Welfare of Older Persons Act
54. Act on Long-term Care Insurance for Older Persons
55. Act on Distribution and Price Stabilization of Agricultural and Fishery Products
56. Agricultural Products Quality Control Act
57. Act on Country of Origin Labeling of Agricultural and Fishery Products
58. Agrochemicals Control Act
59. Act on Maintenance and Improvement of Road Networks in Agricultural and Fishing Villages
60. Act on Maintenance and Improvement of Agricultural and Fishing Villages
61. Agricultural Mechanization Promotion Act
62. Farmland Act
63. Indoor Air Quality Control in Public Use Facilities etc. Act
64. Special Act on the Safety Control of Publicly Used Establishments
65. Act on Fair Transactions in Large Franchise and Retail Business
66. Clean Air Conservation Act
67. Act on Registration of Credit Business, etc. and Protection of Finance Users
68. Act on the Promotion of Collaborative Cooperation Between Large Enterprises and Small-Medium Enterprises
69. Foreign Trade Act

70. Act on Construction of Dams and Assistance, etc. to their Environs
71. Road Traffic Act
72. Road Act
73. Pilotage Act₁
74. Urban Gas Business Act
75. Promotion of mutual exchange between cities and agricultural or fishing villages act
76. Urban Railroad Act
77. Special Act on the Preservation of Ecosystem in Island Areas including Dokdo Island
78. Monopoly Regulation and Fair Trade Act
79. Animal Protection Act
80. Act on the Control of Narcotics, etc.
81. Horse Industry Promotion Act
82. Management of Drinking Water Act
83. Mother and Child Health Act
84. Act on Preservation and Management of Uninhabited Islands
85. Framework Act on the Promotion of Cultural Industries
86. Cultural Heritage Protection Act
87. Price Stabilization Act
88. Framework Act on Logistics Policies
89. Act on Promotion and Support of Water Reuse
90. Door-to-Door Sales, etc. Act
91. Radioactive Waste Control Act
92. Baekdudaegan Protection Act
93. Act on Special Measures for the Control of Public Health Crimes
94. Insurance Business Act
95. Lottery Tickets and Lottery Fund Act
96. Unfair Competition Prevention and Trade Secret Protection Act
97. Act on the Investigation of Unfair International Trade Practices and Remedy Against Injury to Industry
98. Fertilizer Control Act
99. Act on the Promotion and Management of Non-destructive Testing Technology
100. Control of Shooting and Shooting Range Act
101. Control of Livestock and Fish Feed Act
102. Erosion Control Work Act₁
103. Community Chest of Korea Act
104. Social Welfare Services Act
105. Act on the Use of Social Services and the Management of Vouchers
106. Forestry Culture and Recreation Act
107. Forest Protection Act

108. Creation and Management of Forest Resources Act
109. Act on Prevention of Divulgence and Protection of Industrial Technology
110. Industrial Technology Innovation Promotion Act
111. Industrial Design Promotion Act
112. Occupational Safety and Health Act
113. Industrial Accident Compensation Insurance Act
114. Industrial Standardization Act
115. Management of Mountainous Districts Act
116. Trademark Act₁
117. Mutual Savings Banks Act
118. Community Credit Cooperatives Act
119. Bioethics And Safety Act
120. Act on the Conservation and Use of Biological Diversity
121. Act on Protective Action Guidelines Against Radiation in the Natural Environment
122. Asbestos Safety Management Act
123. Petroleum and Petroleum Substitute Fuel Business Act
124. Ship Safety Act
125. Salt Industry Promotion Act
126. Special Act on the Pine Wilt Disease Control
127. Installation, Maintenance, and Safety Control of Fire-fighting Systems Act
128. Fire-fighting System Installation Business Act
129. Framework Act on Consumers
130. Act on Special Measures for the Promotion of Specialized Enterprises, etc. for
Materials and Components
131. Small River Maintenance Act
132. Oil Pipeline Safety Control Act
133. Rescue and Aid at Sea and in the River Act₁
134. Special Act on the Improvement of Air Quality in Seoul Metropolitan Area
135. Water Supply and Waterworks Installation Act
136. Aquatic Life Disease Control Act
137. Fisheries Act
138. Fishery Resources Management Act
139. Water-related Leisure Activities Safety Act
140. Water Quality and Ecosystem Conservation Act
141. Wetlands Conservation Act
142. Elevator Safety Management Act
143. Special Act on the Safety Control of Public Structures
144. Plant Protection Act
145. Protection of New Varieties of Plants Act

146. Food Industry Promotion Act
147. Framework Act on Food Safety
148. Food Sanitation Act
149. Act on the Promotion of the Development, Use and Diffusion of New and Renewable Energy
150. Credit Information Use and Protection Act
151. Child Welfare Act
152. Act on the Protection of Children and Juveniles Against Sexual Abuse
153. Child-care Support Act
154. Malodor Prevention Act
155. Safety Control and Business of Liquefied Petroleum Gas Act
156. Protection of Wild Fauna and Flora Act
157. Pharmaceutical Affairs Act
158. Grain Management Act
159. Act on Safety Control of Children's Amusement Facilities
160. Special Act on Safety Control of Children's Dietary life
161. Fishing Vessels Act
162. Fishing Ground Management Act
163. Fishing Villages and Fishery Harbors Act
164. Energy Use Rationalization Act
165. Passenger Transport Service Act
166. Specialized Credit Financial Business Act
167. Act on Establishment of Safe Laboratory Environment
168. Act on Water Management and Resident Support in the Yeongsan and Seomjin River Basins
169. Infant Care Act
170. Promotion of the Motion Pictures and Video Products Act
171. Act on the Control, etc. of Manufacture of Specific Substances for the Protection of the Ozone Layer
172. Outdoor Advertisements, etc. Control Act
173. Foreign Exchange Transactions Act
174. Food Service Industry Promotion Act
175. Act on the Measures for the Protection of Nuclear Facilities, etc. and Prevention of Radiation Disasters
176. Atomic Energy Act
177. Licensed Sanitarians Act
178. Act on the Safety Control of Hazardous Substances
179. Act on the Regulation of Conducting Fund-Raising Business without Permission
180. Excursion Ship and Ferry Business Act

181. Early Childhood Education Act
182. Transboundary Movement, etc. of Living Modified Organisms Act
183. Banking Act
184. Music Industry Promotion Act
185. Emergency Medical Service Act
186. Medical Appliances Act
187. Medical Technicians, etc. Act
188. Medical Service Act
189. Act on the Prevention of Light Pollution Due to Artificial Lighting
190. Ginseng Industry Act
191. Safety, Management, etc. of Human Tissue Act
192. Rental Housing Act
193. Forestry and Mountain Villages Development Promotion Act
194. Act on Special Cases Concerning Adoption
195. Framework Act on Qualifications
196. Motor Vehicle Management Act
197. Natural Parks Act
198. Countermeasures against Natural Disasters Act
199. Natural Environment Conservation Act
200. Act on the Promotion of Saving and Recycling of Resources
201. Persistent Organic Pollutants Control Act
202. Internal Organs, etc. Transplant Act
203. Act on Guarantee of Promotion of Convenience of Persons With Disabilities, the Aged, Pregnant Women, Etc.
204. Act on Welfare of Persons With Disabilities
205. Framework Act on the Management of Disasters and Safety
206. Disaster Relief Act
207. Reservoir and Dam Safety Control and Disaster Prevention Act
208. Electrical Construction Business Act
209. Electric Utility Act
210. Electrical Appliances Safety Control Act
211. Act on Resource Circulation of Electrical and Electronic Equipment and Vehicles
212. Telecommunications Business Act
213. Electric Technology Management Act
214. Framework Act on Electronic Documents and Transactions
215. Act on Consumer Protection in Electronic Commerce, etc.
216. Act on Promotion of Traditional Liquor, etc. Industry
217. Information and Communications Construction Business Act
218. Act on the Protection of Information and Communications Infrastructure

219. Act on Promotion of Information and Communications Network Utilization and Information Protection, etc.
220. Mental Health Act
221. Act on Cord Blood Management and Research
222. Special Act on the Establishment of Jeju Special Self-Governing Province and the Development of Free International City
223. Framework Act on Product Safety
224. Seed Industry Act
225. Act on External Audit of Stock Companies
226. Housing Act
227. Act on Facilitation of Purchase of Small and Medium Enterprise-manufactured Products and Support for Development of Their Markets
228. Special Act on the Preferential Purchase of Products Manufactured by Persons With Severe Disability
229. Regional Public Health Act
230. Earthquake Recovery Plans Act
231. Groundwater Act
232. Employment Security Act
233. Act on the Prevention of Pneumoconiosis and Protection, etc. of Workers Suffering from Pneumoconiosis
234. Integrated Energy Supply Act
235. Railroad Service Act
236. Railroad Safety Act
237. Juvenile Protection Act
238. Juvenile Activity Promotion Act
239. Installation and Utilization of Sports Facilities Act
240. Special Act on Management of Disasters in Super High-Rise Buildings and Complex Buildings with Underground Connections
241. Grassland Act
242. Act on the Safety Management of Guns, Swords, Explosives, etc.
243. Livestock Products Sanitary Control Act
244. Livestock Industry Act
245. Act on the Promotion of Environment-Friendly Agriculture and Fisheries and the Management of and Support for Organic Foods, etc.
246. Soil Environment Conservation Act
247. Wastes Control Act
248. Act on the Transboundary Movement of Hazardous Wastes and Their Disposal
249. Act on Fair Labeling and Advertising
250. Quality Control and Safety Management of Industrial Products Act

- 251. Act on the Regulation of Amusement Business Affecting Public Morals
- 252. Fair Transactions in Subcontracting Act
- 253. Sewerage Act
- 254. River Act
- 255. School Meals Act
- 256. School Health Act
- 257. Act on the Prevention of and Countermeasures Against Violence in Schools
- 258. Act on the Improvement of Water Quality and Support for Residents of the Riverhead of the Han River System
- 259. Korean Racing Association Act
- 260. Installment Transactions Act
- 261. Aviation Act
- 262. Aviation Safety and Security Act
- 263. Navigational Aids Act
- 264. Harbor Act
- 265. Harbor Transport Business Act
- 266. Maritime Safety Act
- 267. Conservation and Management of Marine Ecosystems Act
- 268. Development and Management of Deep Sea Water Act
- 269. Marine Environment Management Act
- 270. Maritime Safety Act
- 271. Blood Management Act
- 272. Trucking Transport Business Act
- 273. Cosmetics Act
- 274. Chemicals Control Act
- 275. Act on Special Measures for the Control of Environmental Offenses
- 276. Environmental Health Act
- 277. Environmental Examination and Inspection Act
- 278. Environmental Impact Assessment Act
- 279. Prevention of Acquired Immunodeficiency Syndrome Act

ENFORCEMENT DECREE OF THE ACT ON THE PROTECTION OF PUBLIC INTEREST WHISTLEBLOWERS

Presidential Decree No. 23198, Sep. 30, 2011

Amended by Presidential Decree No. 23845, Jun. 7, 2012

Presidential Decree No. 23964, Jul. 20, 2012

Presidential Decree No. 23965, Jul. 20, 2012

Presidential Decree No. 24097, Sep. 7, 2012

Presidential Decree No. 25300, Apr. 8, 2014

Presidential Decree No. 25522, Jul. 28, 2014

Presidential Decree No. 25586, Sep. 2, 2014

Presidential Decree No. 26934, Jan. 22, 2016

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Decree is to prescribe such matters as delegated in the Act on the Protection of Public Interest Whistleblowers, and those necessary for its enforcement.

Article 2 deleted

Article 3 (Scope of Administrative Disposition)

The “administrative action determined by Presidential Decree, including the cancellation and suspension of a permit or license” as provided by Article 2, Paragraph 1, Item B of the Act on the Protection of Public Interest Whistleblowers (hereinafter referred to as the

“Act”) refers to disposition on any matter as defined in any of the following paragraphs:

1. Cancellation, withdrawal or elimination of permission, authorization, patent, license, approval, designation, examination & approval, certification, confirmation, authentication, registration, etc.;
2. Suspension of business, operation, validity, qualification, etc.;
3. Instruction of the responsible party to perform, involuntarily, some specific action such as taking corrective measures, repairing and/or renovating facilities, relocating facilities, closing facilities, dismantling facilities, and publicly disclosing some violation;
4. Imposition of a penalty surcharge, administrative fine, or other obligatory financial payment for the violation.

Article 3-2 (Scope of Internal Public Interest Whistleblower)

“A person prescribed by the Presidential Decree” in Subparagraph 7 (c) of Article 2 of the Act refers to one of the following:

1. A person who is receiving or received education or training, including on-the-job education and on-site training, at a public organization, corporation, corporate body, organization, etc. that are reported before being employed and beginning work at such organization;
2. A person who is working or worked in a public service related organization, designated under Article 3-2 of the Public Service Ethics Act, which is supervised by the public organization that is reported;
3. A person who works or worked for one of the following corporations or corporate bodies:
 - (a) A corporation or corporate body that is affiliated with the reported corporation or corporate body according to Article 2.3 of the Monopoly Regulation and Fair Trade Act;
 - (b) A corporation or corporate body that is in a parent-subsidiary relationship with the reported corporation or corporate body according to Article 1-2.2 of the Act on External Audit of Stock Companies and Article 1-3 of its Enforcement Decree;
4. Anyone who is instructed, managed, or supervised by a public organization, corporation, corporate body, organization, etc. that are reported, and may face disadvantages from that public organization, corporation, corporate body, organization, etc. due to the reporting.

Article 4 (Policy Establishment and Implementation, etc)

- (1) The Anti-Corruption and Civil Rights Commission (hereinafter referred to as the “Commission”) shall establish and implement mid-/long-term basic policies as well as annual implementation plans to protect and support public interest whistleblowers,

etc. in accordance with Article 4 (1) of the Act.

- (2) The Commission shall ensure that the mid-/long-term basic policies and annual implementation plans under Paragraph 1 include training on and the publicizing of the whistleblower protection program for administrative agencies, organizations, enterprises, etc. (hereinafter referred to as “administrative agencies, etc.”).
- (3) When necessary, the Commission may organize a consultative body together with administrative agencies, etc. to establish and implement mid-/long-term basic policies and annual implementation plans under Paragraph 1.
- (4) The Commission may recommend administrative agencies, etc. to implement detailed action plans in accordance with the mid-/long-term basic policies and annual implementation plans under Paragraph 1.
- (5) The Commission may support administrative agencies, etc. with the educational and promotional activities related to their whistleblower protection program.

Article 4-2 (Fact-finding Survey, etc.)

- (1) The Commission may conduct a fact-finding survey regarding the following matters on organizations and agencies stated under Subparagraphs of Article 6 of the Act in accordance with Article 4 (2) of the Act:
 1. Current status on the receipt and handling of public interest reports
 2. Current status on implementation of protective measures etc. and special protective measures, etc. decided by the Commission for public interest whistleblowers, etc.
 3. Current status on rewards, financial awards or relief money paid to public interest whistleblowers in accordance with other statutes
 4. Current status on administrative appeals or administrative litigation filed in relation with public interest whistleblowing
 5. Current status on training and promotional activities in relation with public interest whistleblower protection system
 6. Any other matters on the operation of public interest whistleblowing system
- (2) The Commission may conduct a fact-finding survey by its public officials through on-site visit or written documents according to Paragraph (1)
- (3) Where on-site visit is made according to Paragraph (2), the Commission shall notify the subject of the investigation of the time, purpose, place and personal information of the investigator by 3 days before the investigation.

CHAPTER II PUBLIC INTEREST WHISTLEBLOWING

Article 5 (Public Whistleblowing Agencies, etc.)

- (1) The “persons prescribed by Presidential Decree” under Article 6, Subparagraph 5 of the Act refers to a person and/or entity that falls under one of the following Subparagraphs:
 1. A member of the National Assembly; or
 2. A public corporation, a state-owned enterprise and other public organization established in accordance with laws on public interest violations.
- (2) When a member of the National Assembly or public organization under Paragraph 1, Subparagraph 2 (hereinafter referred to as “member of the National Assembly, etc.”) receives a public interest whistleblowing case, it shall be forwarded to a person and/or entity falling under any of the stipulations in Subparagraphs 2 through 4 of Article 6 of the Act. However, should the public interest whistleblowing case fall under any of the Subparagraphs of Article 10, Paragraph 2 of the Act, the member of the National Assembly, etc. may opt not to forward the report.
- (3) The member of the National Assembly, etc. shall notify the public interest whistleblower of the measure(s) taken as prescribed in Paragraph 2 (to include the reason no action was taken).

Article 6 (Processing, etc. of the Public Interest Whistleblowing Case by Representative, etc.)

- (1) The representative or employer who has received a public interest whistleblowing case as prescribed in Article 6, Paragraph 1 of the Act (hereinafter referred to as “representative, etc.”) shall verify the validity of the report, and, if necessary, devise and implement measures for the elimination and prevention of the violation of the public interest.
- (2) The representative, etc. shall notify the public interest whistleblower of the results of the measures taken under Paragraph 1.
- (3) The representative, etc. may forward the public interest whistleblowing case to any of the persons and/or entities that fall under Subparagraphs 2 through 4 of Article 6 of the Act after obtaining the consent of the public interest whistleblower should such action be deemed necessary to eliminate or prevent public interest violations or should the public interest whistleblower demand that it be forwarded. However, should the public interest whistleblowing case fall under any of the Subparagraphs in Article 10, Paragraph 2 of the Act, it may not be forwarded. In such an event, the public interest whistleblower shall be notified of the fact and the reason(s) thereof.
- (4) The representative etc. may request the Commission for cooperation in devising and implementing measure(s) for eliminating and preventing violations of the public interest, as prescribed in Paragraph 1, and the Commission shall cooperate in such

request unless there exist any special grounds for not doing so.

Article 7 (Confirmation of Details of Public Interest Whistleblowing)

(1) The Commission may confirm any of the following items, if necessary to specify the details of a public interest whistleblowing case in accordance with Article 9 of the Act. If the public interest whistleblower does not have what is required to specify the details of the case, the Commission may set a reasonable period for the public interest whistleblower to supplement the matters thereof:

1. Personal information of the public interest whistleblower, including the name, resident registration number, address, occupation, place of work and contact numbers;
2. Details, purport and reason of the public interest whistleblowing;
3. Relations between the details of the public interest whistleblowing case and violation of the public interest;
4. Relations between the public interest whistleblower and the person and/or entity reported in the case;
5. Whether the public interest whistleblower secured a witness or supporting materials that can prove the details of the public interest whistleblowing case;
6. Whether the public interest whistleblower had reported the same case to an examination agency under Article 6, Subparagraph 2 of the Act (hereinafter referred to as an “examination agency”) before he/she reported to the Commission, and;
7. Whether the public interest whistleblower agrees to have his/her identity disclosed or implied (hereinafter referred to as “disclosure of identity”) in the process of confirmation by the Commission or in the examination or investigation by an examination agency or investigative agency (hereinafter referred to as “examination agency, etc.”).

(2) When the Commission confirms whether the public interest whistleblower agrees to disclosure of identity under Paragraph 1, Subparagraph 7, the Commission shall explain to the said person the procedures for processing the case and disclosing his/her identity on the part of the examination agency, etc.

Article 8 (Processing of a Public Interest Whistleblowing)

(1) The Commission shall confirm the details of a public interest whistleblowing case and refer the said case to an examination agency, etc. within sixty days from the date it received a report of a violation of the public interest. However, if the public interest whistleblowing case falls under any Subparagraphs of Article 10, Paragraph 2 of the Act, such a report may not be referred to an investigative agency, etc.

(2) The Commission may extend the period prescribed under Paragraph 1 by up to thirty days if it deems the extension thereof necessary to supplement the details of the

public interest whistleblowing case.

- (3) In the event that the Commission decides not to transfer a public interest whistleblowing case to an examination agency, etc. under the proviso of Paragraph 1, the Commission shall notify the public interest whistleblower of the said fact and the reason(s) thereof.

Article 9 (Referral of a Public Interest Whistleblowing Case)

- (1) The Commission shall refer a public interest whistleblowing case to an examination agency, etc. as provided by Article 9, Paragraph 3 of the Act according to the following Subparagraphs:
1. To an examination agency should guidance, supervision, regulation or examination of the case be deemed necessary; or
 2. To an investigative agency should there be suspicion that an offense has been committed or an investigation of the case be deemed necessary.
- (2) Should a public interest whistleblowing case be related to multiple agencies, the Commission may designate a supervising organization and refer the case to the related agencies. In this event, the designated supervising organization and related agencies shall cooperate with one another in order to process the public interest whistleblowing case en masse.
- (3) In the event that the Commission refers a public interest whistleblowing case in accordance with Article 9, Paragraph 3 of the Act, it shall include matters prescribed by Subparagraphs of Article 8, Paragraph 1 of the Act as well as supporting materials that were submitted by the public interest whistleblower. However, if the public interest whistleblower did not agree on disclosure of identity, all matters pertinent to personal information shall be excluded.

Article 10 (Forwarding to Public Institutions)

- (1) When it is not obvious whether a report submitted to the Commission as a public interest whistleblowing case (hereinafter referred to as a “reported case”) constitutes a violation of the public interest and it is deemed reasonable for a public institution under Article 2, Paragraph 1 of the Act on Anti-Corruption and the Establishment and Operation of the Anti-Corruption & Civil Rights Commission (hereinafter referred to as a “public institution”) to handle the case, the Commission may forward the case to a public institution. In this event, the Commission shall notify the public interest whistleblower of the fact.
- (2) When a public institution that received a case as provided by Paragraph 1 identifies the reported case as a violation of the public interest, the public institution shall notify the Commission of the said fact, and the Commission shall refer the case to an examination agency, etc. in accordance with the standards as prescribed by Article

9, Paragraph 1. However, when the public institution that received the case is an examination agency, etc. that is responsible for processing the case, it is deemed that the referral of the case is conducted pursuant to Article 8, Paragraph 1, and the public institution shall process the case.

Article 11 (Processing on the Part of an Examination Agency, etc.)

- (1) Should an examination agency, etc. to which a public interest whistleblowing case was referred under Article 9, Paragraph 3 of the Act deem it reasonable for another examination agency, etc. to process the case, the former examination agency, etc. may re-refer the case to the latter examination agency, etc. in consultation with the Commission.
- (2) The examination agency, etc. to which a public interest whistleblowing case was referred pursuant to Article 9, Paragraph 3 of the Act shall notify the Commission of the examination or investigation results within ten days after the examination or investigation thereof is completed.
- (3) The notification under Paragraph 2 shall be in writing and contain the following Subparagraphs:
 1. The results of processing the case, such as criminal disposition and administrative disposition, and details and the reason(s) thereof;
 2. The direction in which the processing of the case shall go after the examination or investigation thereof has been completed;
 3. In the event the case is or is expected to be subject to the payment of a reward in accordance with Article 26, Paragraph 1 of the Act or of relief money in accordance with Article 27, Paragraph 1 of the Act, the fact thereof;
 4. In the event that it is deemed necessary to make improvements in institutionalized practices, as identified by the public interest whistleblowing case, the summary thereof;
 5. Other matters regarding public interest whistleblowing that the Commission or the public interest whistleblower needs to be aware of.
- (4) The Commission may request an examination agency, etc. to submit information on the status of processing a public interest whistleblowing case referred to the examination agency, etc. In this event, the examination agency, etc. shall notify the Commission of the status thereof unless the examination agency, etc. has any special reason(s) not to do so.

Article 11-2 (Presentation of Opinion)

Where the Commission presents its opinion according to Article 9 (5) of the Act, the opinion shall be provided in writing specifying details of the opinion presented, deadline for reply containing how the Commission's opinion was implemented, etc.

Article 11-3 (Request for Objections, Re-examination/Re-investigation, etc.)

- (1) A public interest whistleblower who is to file an objection under Article 9 (6) of the Act shall do so in writing stating the purpose and reason of the objection with attached relevant materials within 60 days from the date of the receipt of a summary of the findings of the examination or investigation.
- (2) If the Commission is to request examination or investigation agencies to conduct a re-examination or a re-investigation under Article 9 (7) of the Act, it shall do so within period set as follow:
 1. In case where the Commission deems the examination or investigation by examination or investigation agencies insufficient: 60 days from the date when the result of examination or investigation is notified;
 2. In case where the Commission deems the objection made by a public interest whistleblower under Article 9 (6) of the Act reasonable: 60 days from the date when the objection is received.
- (3) The Commission shall notify the public interest whistleblower of the handling result of the objection including whether the Commission requested a re-examination or re-investigation within 60 days from the date the Commission received the objection under Paragraph 1.

Article 12 (When an Examination is Unnecessary)

“The event that there is no reason for examination as prescribed by Presidential Decree” under Article 10, Paragraph 2, Subparagraph 7 refers to a situation falling under any of the following Subparagraphs:

1. In the event that the details of the public interest whistleblowing case do not constitute a violation of the public interest;
2. In the event that no evidence exists to prove a violation of the public interest; or
3. In the event that other Acts or the authority delegated by such Acts may exempt the pertinent violation of the public interest from being subject to examination.

Article 12-2 (Construction and Operation of Integrated Information System for Public Interest Whistleblowing)

- (1) Where the Commission, in accordance with Article 10-2 (2) of the Act, requests organizations and agencies stated under the Subparagraphs of Article 6 of the Act to provide data and information, it shall specify the scope of, purpose of retaining and using, and method of providing such data and information.
- (2) The Commission, if necessary, may request supplementation of the data and information provided by organizations and agencies stated in the Subparagraphs of Article 6 of the Act from the head of the organizations and agencies that provided such data and information.

CHAPTER III PROTECTION OF PUBLIC INTEREST WHISTLEBLOWER, ETC.

Article 13 (Personal Confidentiality of Public Interest Whistleblower, etc.)

A representative, etc.; the Commission; an examination agency, etc.; and a member of the National Assembly, etc. shall offer necessary measures to ensure that the identity of the public interest whistleblower, etc. is not disclosed without his/her consent in the processes of receiving, referring, forwarding, examining and investigating the public interest whistleblowing case.

Article 14 (Protection of Personal Safety)

- (1) Any person who requests the Commission to take protective measures for his/her personal safety under Article 13, Paragraph 1 of the Act (hereinafter referred to as “personal protection measures”) shall submit to the Commission a document specifying the personal information of the applicant and the person who needs to be provided with protective measures (hereinafter referred to as “person subject to protection”), and the reason(s) for the application. Should an urgent reason exist, however, the applicant may request personal protection measures verbally or by telephone. In this case, the applicant shall submit the above mentioned document without delay.
- (2) In the event that the need for personal protection measures is too urgent to wait for the Commission’s decision to provide such measures, the Chairperson of the Commission may request the chief of a police station or agency to provide the person subject to protection with such measures.
- (3) The chief of a police station or agency who received a request for personal protection measures under the latter part of Article 13, Paragraph 1 of the Act shall decide on, in consultation with the Commission, the necessary measures as prescribed in Article 7 of the Enforcement Decree of the Protection of Reporters, etc. of Specific Crimes Act, and if the personal protection measures are taken, shall notify the Commission of the said fact without delay.
- (4) The chief of a police station or agency may cancel the implementation of personal protective measures under Paragraph 3 in consultation with the Commission if such measures are deemed unnecessary.
- (5) The Commission shall notify the applicant and the person subject to protection without delay of such facts as the decision to provide personal protective measures as prescribed in Paragraph 3, the cancellation of such measures as prescribed in Paragraph 4, and the end of the period of protection.

Article 15 (Request for and Examination of Protective Measures)

- (1) When a public interest whistleblower, etc. requests the Commission to take measures

to recover his/her state of life or other necessary measures under Article 17, Paragraph 1 of the Act (hereinafter referred to as “protective measures”), the public interest whistleblower, etc. shall submit to the Commission a document specifying the personal information of the applicant, the reason(s) for the application and the details of the requested measures.

- (2) When the Commission requests any person falling under any of Article 19, Paragraph 2, Subparagraphs 1 through 3 of the Act to appear before the Commission under Article 19, Paragraph 3 of the Act, the Commission shall give the said person a seven-day written notice specifying when and where to appear. Should there exist an urgent reason or the possibility that the written notification be detrimental to the examination objective, however, the Commission may not give the written notice prior to the appearance before the Commission.
- (3) The Commission may request the cooperation of an examination agency that was notified of an application by the public interest whistleblower, etc. for protective measures under Article 19, Paragraphs 1 and 5 to provide the Commission with materials regarding the examination of the relevant violation of the public interest. In this event, the examination agency shall comply with the request unless there is a justifiable reason for them to decline.

Article 16 (Determination, etc. of Protective Measures)

- (1) When the Commission receives an application for protective measures under Article 17, Paragraph 1 of the Act, the Commission shall decide to take protective measures as prescribed by Article 20, Paragraph 1 of the Act or to issue a recommendation as provided by Article 20, Paragraph 2 of the Act (hereinafter referred to as “decision, etc. to take protective measures”) within 60 days after the application was submitted. If necessary, the period may be extended by up to 30 days.
- (2) The Commission may recommend that the head, etc. of an organization to which a person who had taken disadvantageous measures belongs implement measures such as guidance and supervision necessary to ensure the implementation of protective measures for a public interest whistleblower, etc. who underwent the disadvantageous measures in accordance with the decision, etc. to take protective measures.
- (3) The Commission may recommend that the head, etc. of an organization to which the public interest whistleblower, etc. belongs take measures comparable to protective measures such as change of occupation, change of position or transfer of workplace should any special circumstance exist to believe that it would be difficult to implement the protective measures in accordance with the decision, etc. to take protective measures.
- (4) The Commission shall notify the applicant for protective measures of the fact that the recommendation was issued under Paragraph 2 or 3.

Article 17 (Standard for the Delayed Payment of Wages, etc.)

- (1) The remuneration, etc. prescribed in Article 20, Paragraph 1, Subparagraph 2 of the Act shall be the earned income under Article 20, Paragraph 1 of the Income Tax Act, and the interest shall be interest for delayed payment of wages as provided by Article 37 of the Labor Standard Act.
- (2) The period for the calculation of the delayed payment of remuneration and interest under Paragraph 1 shall be from the date when the remuneration went in arrears or when discriminatory payment began to the date when a decision from the Commission is issued under Article 20, Paragraph 1.
- (3) The Commission may request the related agencies, organizations or enterprises to submit the relevant materials under Article 19, Paragraph 2 of the Act, if they are deemed necessary to confirm the amount of remuneration, etc. as prescribed in Paragraph 1.

Article 17-2 (Criteria to Impose Charges for Compelling Compliance)

The criteria to impose charges for compelling compliance under Article 21-2 (1) of the Act is described in the Attached Table 1-2

Article 18 (Prohibition of Disadvantageous Measures)

- (1) A public interest whistleblower, etc. who requests the Commission to take measures to prohibit disadvantageous measures under Article 22, Paragraph 1 of the Act shall submit to the Commission a document specifying the personal information of the applicant, the reason(s) for the application and the details of the requested measures.
- (2) When the Commission receives an application for the prohibition of disadvantageous measures under Paragraph 1, the Commission shall make a decision as provided by Article 22, Paragraph 4 of the Act within 60 days after the application was submitted. If necessary, however, the period may be extended by up to 30 days.
- (3) When the Commission recommends an organization prohibit disadvantageous measures under Paragraph 2, the Commission may recommend the head, etc. of the organization to which a person who intends to take disadvantageous measures belongs implement necessary measures such as guidance and supervision over the said person. In this case, the Commission shall notify the applicant of prohibition of disadvantageous measures of the fact that the recommendation was issued.

Article 19 (Notification of Results for Implementing Measures, etc.)

A person who receives a request for protective measures under Article 20, Paragraph 1 of the Act, recommendation under Paragraph 2 of the same Article, request for disciplinary action under Paragraph 4 of the same Article, or recommendation for the prohibition of disadvantageous measures under Article 22, Paragraph 4 of the Act shall notify the

Commission of the results of implementing the aforesaid measures or of the reason(s) of failure to take such measures within 30 days after the request or recommendation was received.

Article 20 (Request for Cooperation)

Under Article 25, Paragraph 1, the Commission may request a relevant administrative agency, counseling center or medical institution, and other relevant organizations for cooperation or assistance as needed for matters falling under the following Subparagraphs:

1. Presentation of materials, documents, etc. or explanation;
2. Appearing before the Commission and making statements;
3. Secondment, examination and consultation of employees belonging to the organization
4. Counseling to provide the public interest whistleblower, etc. with psychological comfort and medical support for illness treatment and healthcare;
5. Legal aid for the recovery of damages and relief of rights, including provision of legal consultation and advice, legal representation in a lawsuit, etc.;
6. Provision of vocational training opportunities and recommendation of new occupations for the public interest whistleblower, etc.;
7. Other matters necessary to protect the public interest whistleblower, etc.

Article 20-2 (Objections to Instruction of Political Campaigns, etc.)

(1) Under Paragraph (1) of Article 25-2 of the Act, State public officials etc., when instructed to perform actions described in any of the Subparagraphs of the same paragraph (hereinafter referred to as “political campaigns, etc.”), may file an objection to the person in any of the following:

1. The person who ordered political campaigns, etc.
2. The head of the agency to which the person prescribed in Subparagraph 1 belongs to

(2) An objection under Paragraph (1) shall be made in a written document (including electronic document, the same hereinafter). However, when it is deemed urgent or it has reasonable grounds, a written document may be submitted after an objection is first filed with an oral statement.

(3) The written document prescribed in paragraph (2) shall include details of the following items:

1. Personal information including the name, association, and position of the person who files the objection
2. Personal information including the name, association, and position of the person who instructed political campaigns, etc.
3. The date on and place in which political campaigns, etc. were instructed

4. Contents of the instruction of political campaigns, etc.
 5. The purport and reason of the objection
- (4) The person who received the objection under Paragraph (1) and deemed the objection reasonable shall immediately take corrective measures based on the content of the objection, which should be notified of in writing to the person who made the objection. If the objection is deemed groundless, a written notice of the decision and reason in detail shall be given to the person who filed the objection.

CHAPTER IV REWARDS, FINANCIAL AWARDS, AND RELIEF MONEY

Article 21 (Ground for Payment of Reward)

The “dispositions or judgments as prescribed by Presidential Decree” in Article 26, Paragraph 1, Subparagraph 5 of the Act refers to disposition or judgment falling under any of the following Subparagraphs:

1. Imposition of national tax or local tax;
2. Disposition of imposing charges or additional charges, etc.;
3. Judgment to compensate damages or restitute unlawful gain.

Article 22 (Standards for the Payment of Rewards)

(1) The standard for calculating the amount of rewards is as specified in the Attached Table 2. However, the rewards may be reduced or not paid in consideration of the following Subparagraphs. In the event that a public official who is or was involved in the examination of or investigation into a violation of the public interest makes a report related to the examination or investigation, rewards shall not be paid:

1. Accuracy of the report or credibility of evidential materials;
 2. Whether the reported violation of the public interest was already disclosed through newspapers, broadcast or other mass media;
 3. Whether the internal public interest whistleblower committed any illegal act(s) related to his/her report;
 4. The extent to which the internal public interest whistleblower contributes to the eradication and prevention of violations of the public interest;
 5. Whether the internal public interest whistleblower has an obligation to report a violation of the public interest or whether the report is related to his/her duties.
- (2) The maximum amount of rewards shall be KRW 2 billion, and any fraction under KRW 1,000 shall not be paid.
- (3) In the event that the reward amount related to an individual public interest violation case is less than KRW 200,000, the reward shall not be paid.
- (4) The detailed criteria, method and procedures for the payment of the reward shall be

decided and publicly announced by the Chairperson through the resolution of the Committee.

Article 23 (Determination of the Payment of Rewards)

- (1) The Commission shall determine whether to pay rewards and the reward amount based on the deliberation and resolution by the Reward Deliberation Board under Article 69 of the Act on the Anti-Corruption and the Establishment and Operation of the Anti-Corruption and Civil Rights Commission (hereinafter referred to as the "Reward Deliberation Board"). Should the Reward Deliberation Board decide to pay the reward, the Commission shall send the authentic copy of the written decision and the written notification thereof to the applicant without delay.
- (2) At the time of the determination of reward by the Commission under Paragraph 1, after a legal relation that would result in the recovery of or increase in revenues to the State or local autonomous governments is established and if the aforementioned recovery of or increase in revenues has not begun or the amount of recovered or increased revenues is less than 50/100 of the reward amount calculated under Article 22, Paragraph 1, the Commission may determine that the payment of the reward would be first executed within the scope of 50/100 of the reward amount and the remaining part be paid after the amount of recovered or increased revenues to the State or local autonomous governments exceeds the amount of the reward already paid.

Article 24 (Determination of Reward Amounts for Concurrent Reward Applications)

- (1) When two or more persons respectively file public interest whistleblowing cases for a single violation of the public interest, the cases are deemed a single case in the determination of the reward amount under the Attached Table 2.
- (2) The Commission, in determining the respective amounts for individual internal public interest whistleblowers in the event of a public interest whistleblowing case prescribed in Paragraph 1, shall assign the rewards in comprehensive consideration of the contributions of the individuals to the eradication and prevention of the violation of the public interest and other factors. In this case, the Subparagraphs of Article 22, Paragraph 1 shall be applied to the individual internal public interest whistleblowers respectively.

Article 25 (Date of the Payment of Rewards)

The reward shall be paid after the recovery of or increase in revenues to the State or local autonomous governments occurred through such procedures as the imposition of charges provided by any of the Subparagraphs of Article 26, Paragraph 1 of the Act or a legal relation thereof is established. In this case, if the period of appeal regarding

the procedures does not expire or the appeal proceedings for the relief thereof are in progress, the payment shall be executed after the expiration of the appeal period or the completion of the relief proceedings.

Article 25-2 (Grounds for Payment of Financial Awards)

“Other grounds prescribed by Presidential Decree” in Article 26-2 (1) 4 of the Act refers to any of the following cases:

1. A case where an administrative fine or penalty surcharge is imposed;
2. A case where the whistleblowing contributes to the prevention of social disaster, its spread, etc.

Article 25-3 (Criteria, etc. for Payment of Financial Awards)

(1) The payment of financial awards under Article 26-2 (1) of the Act (hereinafter referred to as “financial awards”) shall vary depending on the consideration of matters according to the following. The maximum amount of payment shall be 200,000 won.

1. Article 26-2 (1) 1 of the Act: a stay of prosecution, probation, stay of execution, and types and severity of sentence
2. Article 26-2 (1) 2 of the Act: details of, the number of people imposed on, and period of the administrative measure
3. Article 26-2 (1) 3 of the Act: the extent and content of institutional improvement such as the enactment or amendment of relevant statutes, or extent of promoting public interest
4. Article 25-2.1: the amount of administrative fines or penalty surcharges imposed
5. Article 25-2.2: details of which the whistleblowing contributes to the prevention of social disaster and its spread, etc. or extent of promoting public interest

(2) Financial rewards may be reduced or not paid in consideration of the following Subparagraphs. In the event that a public official who is or was involved in the examination of or investigation into a violation of the public interest makes a report related to that examination or investigation, financial awards shall not be paid:

1. Accuracy of the report or credibility of evidential materials;
2. Whether the reported violation of the public interest was already disclosed through newspapers, broadcast or other mass media;
3. Whether the public interest whistleblower committed any illegal act(s) related to his/her report;
4. The extent to which the public interest whistleblower contributes to the eradication and prevention of violations of the public interest;
5. Whether the public interest whistleblower has an obligation to report a violation of the public interest to relevant administrative agency or whether the report is related to his/her duties.

- (3) Among those whose public interest whistleblowing brings substantial property benefits to the State or a local government, prevents loss, or promotes the public interest in accordance with Article 26-2 (1) by reason of the subparagraphs of the same paragraph, the Commission select the recipients of financial awards either recommended by persons or organizations prescribed by Article 6.1 to 6.3 or Article 5 of the Act, or at its discretion.
- (4) When the Commission selects the recipient under Paragraph 3, it shall determine whether to pay financial awards and the amount of payment thereof, based on resolutions adopted by the Reward Deliberation Board after deliberation. Upon determination on payment of financial awards, the Commission shall promptly send the applicant authentic copy of the written determination and a notice of the determination.
- (5) Matters necessary for the detailed criteria and procedures for payment of financial awards shall be determined by the Commission.

Article 26 (Standard to Calculate the Amount of Relief Money)

- (1) The Reward Deliberation Board shall consider the following Subparagraphs in the calculation of relief money under Article 27, Paragraph 2 of the Act for such situations as prescribed in Subparagraphs of Article 27, Paragraph 1 of the Act:
 1. Expenses incurred related to medical examination, hospitalization, medication, surgery, etc. for physical and psychological treatment;
 2. Actual costs incurred to move the residence as a result of change of occupation, change of position or transfer of workplace, secondment, personal protection, etc.;
 3. Fees incurred to hire a lawyer, certified public labor attorney, etc. for dispute over recovery of the original state of life;
 4. Monthly average of wages or actual income during the three months prior to the date the disadvantageous measures were taken (hereinafter referred to as “monthly average”); or the average wage in the event that there exists no method to prove the amount of the monthly average or the calculated monthly average is below the average wage;
 5. Other expenditures the Reward Deliberation Board recognizes as being incurred related to damages or costs as a result of the public interest whistleblowing, etc.
- (2) The monthly average shall not exceed double the average wage, and the period of wage losses calculated under Article 27, Paragraph 1, Subparagraph 9 of the Act shall not exceed 36 months.
- (3) The average wage as prescribed in Paragraph 1, Subparagraph 4 is specified by the average wage of daily workers based on nationwide statistics on the wages of the typical male or female laborer, which is conducted by a wage survey agency that regularly publishes wage statistics at least 6 times a year.

(4) The proviso of Article 22 (1) shall apply mutatis mutandis to deciding whether the amount of the reward shall be reduced or the reward shall not be paid.

Article 27 (Decision on the Payment of Relief Money)

(1) The Commission shall determine whether to pay relief money and its amount based on the deliberation and resolution by the Reward Deliberation Board. Should the Reward Deliberation Board decide to pay the relief money, the Commission shall send the authentic copy of the written decision and the written notification thereof to the applicant without delay.

(2) The Commission shall determine whether to pay relief money and its amount within 90 days from the date on which the application for relief money was submitted under Article 27, Paragraph 1 of the Act unless there are exceptional circumstances otherwise.

Article 27-2 (Procedures to Exert Subrogation Rights to Claim Damages)

The Commission shall decide in a prompt manner whether it would exercise the right to indemnity with the subrogation of the claim under Article 27 (5) of the Act in the event that it had paid the relief money to the public interest whistleblower, his/her relatives or cohabitants.

Article 28 (Establishment and Operation, etc. of Information System)

(1) The Commission may establish and operate an information system in order to prevent the double payment of rewards and relief money under Article 28 of the Act.

(2) The Commission may request the administrative agency, etc. to provide data regarding the payment of rewards, awards and relief money in order to establish and operate an information system under Paragraph 1.

(3) The Commission may develop and distribute a standardized program so as to enable the administrative agency, etc. to use the information system under Paragraph 1.

CHAPTER V SUPPLEMENTARY PROVISIONS

Article 29 (Handling of Personal Identification Number)

(1) The person who falls into one of the categories under Article 6 of the Act may handle data which includes resident registration numbers under Article 19, Subparagraph 1 of the Enforcement Decree of the Personal Information Protection Act, passport numbers under Subparagraph 2 of the same Article, and alien registration numbers under Subparagraph 4 of the same Article (hereinafter resident registration numbers, etc.) if deemed necessary to perform the affairs concerning public interest whistleblowing as prescribed in Article 8 of the Act on the Protection of Public Interest Whistleblowers.

- (2) The Commission may handle the data which includes resident registration numbers, etc. if deemed necessary to perform one of the following affairs:
1. Affairs concerning confirmation of the details of a public interest whistleblowing case, referral, etc. under Article 9 of the Act;
 2. Affairs concerning maintaining the confidentiality of the public interest whistleblower, etc. under Article 12 of the Act;
 3. Affairs concerning personal protection measures under Article 13 of the Act;
 4. Affairs concerning mitigation and remission of culpability, etc. under Article 14 of the Act;
 5. Affairs concerning protective measures under Articles 17 through 20 of the Act;
 6. Affairs concerning prohibition of disadvantageous measures under Article 22 of the Act;
 7. Affairs concerning rewards under Article 26 of the Act;
 - 7-2. Affairs concerning financial awards under Article 26-2 of the Act;
 8. Affairs concerning relief money under Article 27 of the Act.
- (3) The investigative agency to which a public interest whistleblowing case was referred pursuant to Article 9 of the Act may handle the data which includes resident registration numbers, etc. if deemed necessary to perform the affairs concerning handling of public interest whistleblowing cases under Article 10 of the Act.

Article 30 (Imposition and Collection of Administrative Fine)

The standard for imposing an administrative fine under Article 31, Paragraph 1 and 2 of the Act is as specified in the Attached Table 3.

ADDENDUM

〈Presidential Decree No. 23198, Sep. 30, 2011〉

This Decree shall enter into force on September 30, 2011. However, the Act 74 of the Attached table 1 shall take into force on April 29th 2012. The Act 144 of the same attached table shall come into effect on March 9th, 2012.

ADDENDA

〈Presidential Decree No. 23845, Jun. 7, 2012〉

Article 1 (Enforcement Date)

This Decree shall enter into force on June 8, 2012.

Article 2 and 3 are omitted

Article 4 (Amendment of other Acts and Subordinate Statues)

(1) Enforcement Decree of the Act on the Protection of the Public Interest Whistleblowers shall be amended in part as follows:

The 52 of Attached Table 1 shall be amended as follows:

52. Act on the Control of Narcotics, etc.

(2) through (9) are omitted

ADDENDA

〈Presidential Decree No. 23964, Jul. 20, 2012〉

Article 1 (Enforcement Date)

This Decree shall enter into force on July 22, 2012.

Article 2 is omitted.

Article 3 (Amendment of other Acts and Subordinate Statues)

(1) Enforcement Decree of the Act on the Protection of the Public Interest Whistleblowers shall be amended in part as follows:

The 85 of Attached Table 1 shall be amended as follows:

85. Quality Control of Agricultural and Fishery Products Act

Paragraphs (2) through (7) are omitted.

Article 4 is omitted.

ADDENDA

〈Presidential Decree No. 23965, Jul. 20, 2012〉

Article 1 (Enforcement Date)

This Decree shall enter into force on July 22, 2012.

Article 2 and 3 are omitted.

Article 4 (Amendment of other Acts and Subordinate Statues)

(1) Enforcement Decree of the Act on the Protection of the Public Interest Whistleblowers shall be amended in part as follows:

The 84 of Attached Table 1 shall be amended as follows:

84. Aquatic Life Disease Control Act

[2] is omitted

Article 5 is omitted.

ADDENDA

⟨Presidential Decree No. 24097, Sep. 7, 2012⟩

Article 1 (Enforcement Date)

This Decree shall enter into force on September 10, 2012.

Article 2 and 3 are omitted.

Article 4 (Amendment of other Acts and Subordinate Statutes)

Paragraphs (1) through (3) are omitted.

(4) Enforcement Decree of the Act on the Protection of the Public Interest Whistleblowers shall be amended in part as follows:

The 34 of Attached Table 1 shall be amended as follows:

34. Fishing Management and Promotion Act

Article 5 is omitted.

ADDENDUM

⟨Presidential Decree No. 25300, Apr. 8, 2014⟩

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

ADDENDUM

⟨Presidential Decree No. 25522, Jul. 28, 2014⟩

Article 1 (Enforcement Date)

This Decree shall enter into force on July 28, 2014.

Article 2 (Amendment of other Acts and Subordinate Statutes)

Paragraph (1) is omitted.

(2) Enforcement Decree of the Act on the Protection of the Public Interest Whistleblowers shall be amended in part as follows:

The 20 of Attached Table 1 shall be amended as follows:

20. Licensed Real Estate Agents Act
Paragraphs (3) through (7) are omitted.

Article 3 is omitted.

ADDENDA

〈Presidential Decree No. 25586, Sep. 2, 2014〉

Article 1 (Enforcement Date)

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

Article 2 (Applicability of the Decision on the Reduction or the Non-payment of the Reward)

The revised provision of Article 26 (4) shall be applied to the first case of the application of the reward after this Decree enters into force.

Article 3 (Transitional Measures concerning the Payment of the Reward)

The amended provision of Article 22 (3) shall not apply to the payment of the reward for the whistleblower who has reported violations of public interest before this Decree enters into force.

ADDENDA

〈Presidential Decree No. 26934, Jan. 22, 2016〉

Article 1 (Enforcement Date)

This Decree shall enter into force on January 25, 2016.

Article 3 (Transitional Measures concerning the Payment of the Reward)

The amended provision of Article 22 (2) shall not apply to the payment of the reward for the whistleblower who has reported violations of public interest before this Decree enters into force.

[Attached Table 1] deleted

[Attached Table 1-2]

Criteria to Impose Charges for Compelling Compliance [refer to Article 17-2]

1. General criteria

The specific amount of charges for compelling compliance shall be determined within the range set by the type by considering the motive of the violation, the extent of culpability, such as whether the violation occurs by intention or negligence, the degree of effort to implement the protective measures, and the period of non-compliance. However, if there coexists more than one violation, the amount shall be based on the heavier one.

2. Specific criteria

Violation	Amount
<p>A. Where a person fails to implement protective measures to recover the original state, called upon by the Commission pursuant to Article 20 (1) 1 of the Act (including cases where it is applied mutatis mutandis pursuant to Article 20-2 (2) of the Act) from disadvantageous measures falling under any of the following subparagraphs:</p> <p>1) Disadvantageous measures prescribed in subparagraph 6 (a) of Article 2 of the Act;</p> <p>2) Disadvantageous measures falling under subparagraph 6 (b) or (c) of Article 2 of the Act.; and</p> <p>3) Disadvantageous measures falling under subparagraph 6 (d) through (g) of Article 2 of the Act.</p>	<p>10 mil ~ 20 mil won</p> <p>5 mil ~ 10 mil won</p> <p>1 mil ~ 10 mil won</p>
<p>B. Where a person fails to implement protective measures to pay the remuneration that has been delayed or has been paid discriminately, including interest, called upon by the Commission pursuant to Article 20 (1) 2 of the Act (including cases where it is applied mutatis mutandis pursuant to Article 20-2 (2) of the Act)</p>	<p>1 mil ~ 10 mil won</p>
<p>C. Where a person fails to implement protective measures to cancel or prohibit other disadvantageous measures, called upon by the Commission pursuant to Article 20 (1) 3 of the Act (including cases where it is applied mutatis mutandis pursuant to Article 20-2 (2) of the Act)</p>	<p>1 mil ~ 10 mil won</p>

[Attached Table 2]

Criteria for Payment of Rewards [refer to Article 22, Paragraph 1]

Benefits Incurred	Criteria
KRW 100 million or less	20%
Over KRW 100 million and not more than KRW 500 million	KRW 20 million + 14% for the amount exceeding KRW 100 million
Over KRW 500 million and not more than KRW 2 billion	KRW 76 million + 10% for the amount exceeding KRW 500 million
Over KRW 2 billion and not more than KRW 4 billion	KRW 226 million + 6% for the amount exceeding KRW 2 billion
Over KRW 4 billion	KRW 346 million + 4% for the amount exceeding KRW 4 billion

※ Benefits Incurred: The value of the recovered or increased revenues of the State or local autonomous governments by the imposition, etc. (or such value in time of the establishment of legal relations related to that matter) as referred to Article 26, Paragraph 1 of the Act and in any Subparagraph of Article 21 of the Enforcement Decree.

[Attached Table 3]

Criteria for Imposition of Administrative Fine [refer to Article 30]

1. General Criteria

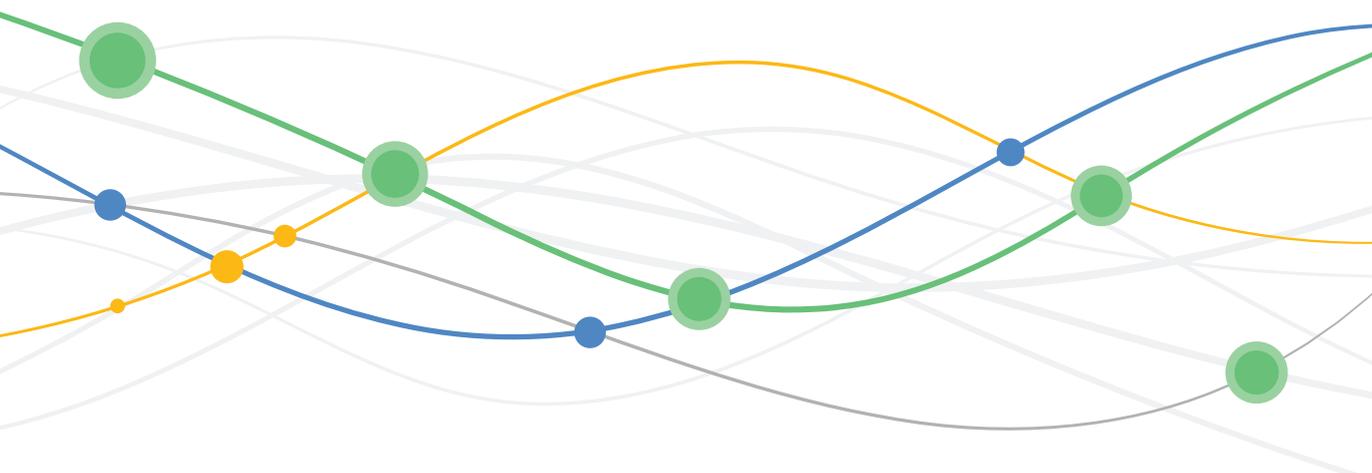
- A. The Criteria for imposition of administrative fine corresponding to the number of violation are applied when a violator is fined for the same violation within a recent year. In this case, the number of violation shall be determined in accordance with both the date of imposition of administrative fine and the date of detection of re-commitment of the same violation.
- B. In case where two or more violations occurred, the heavier one shall be the basis for the determination.
- C. The Commission can reduce the amount of fines up to half, should a case falls under any of following conditions: Provided that this shall not apply to a violator who is in arrears of administrative fine.
 - 1) Where the violator falls under any of Subparagraph of Article 2-2, Paragraph 1 of the Enforcement Decree of the Act on the Regulation of Violations of Public Order;
 - 2) Where the violation is deemed to make little damage to the Commission in carrying out its duties because the violation is minor in terms of type and seriousness;
 - 3) Where the violator corrected or resolved the consequence of his/her violation; or
 - 4) Other cases where it is deemed necessary to reduce the amount of administrative fine, in consideration of the seriousness, the motive, and the consequence of the violation.

2. Specific Criteria

(Unit: KRW 10,000)

Violation	Applicable Provision	Amount of administrative fine		
		First	Second	Third and more
<p>A. Where a person refused to submit relevant materials, attend the Commission or state his/her opinions in violation of Article 19, Paragraph 2 or 3 of the Act (including when Article 22, Paragraph 3 of the Act is applied mutatis mutandis)</p> <p>1) A person who takes disadvantageous measures</p> <p>2) A reference person</p> <p>3) An applicant</p>	Article 31, Paragraph 1 of the Act	500	1,000	2,000
<p>B. Where a relevant agency, organization or enterprise refuses to submit the materials under Article 19, Paragraph 2 of the Act (including when Article 22, Paragraph 3 of the Act is applied mutatis mutandis)</p>	Article 31, Paragraph 1 of the Act	400	700	1,000
<p>C. Where a person fails to implement a decision for special protective measures in any of the following paragraphs under Article 20-2 of the Act, which were confirmed either by an administrative proceeding filed under Article 21 (1) of the Act (which is applied mutatis mutandis according to Article 20-2 (2) of the Act), or under Paragraph 2 of the same article</p> <p>1) When a person fails to implement the Commission's decision for special protective measures to recover whistleblower's state of life from any of the following disadvantageous measures, in accordance with Article 20 (1) 1 of the Act which is applied mutatis mutandis under Article 20-2 (2) of the Act</p> <p>a) Disadvantageous measures under Article 2.6 (a) of the Act</p> <p>b) Disadvantageous measures under Article 2.6 (b) or (c) of the Act</p> <p>c) Any disadvantageous measure under Article 2.6 (d) to (e) of the Act</p> <p>2) When a person fails to implement the Commission's decision for special protective measures to pay remuneration, etc. that has been delayed or has been paid discriminately, including interest, in accordance with Article 20 (1) 2 of the Act which is applied mutatis mutandis under Article 20-2 (2) of the Act</p> <p>3) When a person fails to implement the Commission's decision for special protective measures to cancel or prohibit other disadvantageous measures, in accordance with Article 20 (1) 3 of the Act which is applied mutatis mutandis under Article 20-2 (2) of the Act</p>	Article 31, Paragraph 2 of the Act		2,000	1,000
			500	
			500	
				500

June 2017



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