

SOCIAL ENTERPRISE PROMOTION ACT

Enacted by Act No. 8217, Jan. 3, 2007
Amended by Act No. 8361, Apr. 11, 2007

Article 1 (Purpose)

The purpose of this Act is to contribute to the integration of society as well as to the enhancement of the quality of the people's life thereof, by means of expanding social services, which are not sufficiently provided in society, and creating jobs.

Article 2 (Definitions)

For the purpose this Act, the definitions of terms shall be as follows:

(1) The term "social enterprise" used in this Act means an organization which is engaged in business activities of producing and selling goods and services while pursuing a social purpose of enhancing the quality of local residents' life by means of providing social services and creating jobs for the disadvantaged, as an enterprise certified according to the requirements prescribed in Article 7;

(2) The term "the disadvantaged" used in this Act means people who have difficulty in purchasing social services necessary to themselves for a market price, the detailed criteria thereof shall be determined by the Presidential Decree;

(3) The term "social service" used in this Act refers to service in education, health, social welfare, environment and culture and other service proportionate to this, whose area is prescribed by the Presidential Decree;

(4) The term "connected enterprise" used in this Act means an enterprise which provides a certain social enterprise with various support including financial assistance, management consultation, etc. and is a personally, materially and legally independent entity of the social enterprise; and

(5) The term "connected local government" used in this Act refers to a local government which provides administrative and financial supports for a certain social enterprise with the aim to expand social service and create jobs for the sake of local residents.

Article 3 (Functions and Responsibilities by Each Operating Entity)

(1) The nation shall draw up support measures for a social

enterprise and pursue necessary measures comprehensively for the purpose of social service expansion and job creation.

(2) A local government shall draw up and carry out support measures for a social enterprise in consideration of local characteristics.

(3) A social enterprise shall make efforts to reinvest profits created by business activities in the maintenance and expansion of social enterprises.

(4) A connected enterprise shall not gain profits made by a social enterprise.

Article 4 (Social Enterprise Support Committee)

(1) In order to deliberate on the following subparagraphs on social enterprises, the Social Enterprise Support Committee (hereinafter referred to as “the Support Committee”) shall be placed under the Minister of Labor:

1. Deliberation of the basic plan for social enterprise support under Article 5;
2. Matters concerning the review criteria for the certification of a social enterprise under Article 7;
3. Certification of a social enterprise under Article 7; and
4. Other matters necessary for the support of social enterprise determined by the Presidential Decree.

(2) The Committee shall be composed of not exceeding 15 members including one Chairman. The Chairman shall be the Vice Minister of Labor, and the members shall be appointed by the Minister of Labor out of persons with deep knowledge and experience concerning public officials of the related central administrative agency and social enterprises determined by the Presidential Decree.

(3) Necessary matters concerning the operation of the Committee shall be decided by the Ordinance of the Ministry of Labor.

Article 5 (Establishment of the Basic Plan for Social Enterprise Support)

(1) The Minister of Labor shall establish the Basic Plan for Social Enterprise Support (hereinafter referred to as “the basic plan”) every five years after the deliberation of the Support Committee with the aim to promote social enterprises and support them systematically.

- (2) The Basic Plan shall include the following subparagraphs:
1. Direction to promote the support for social enterprises;
 2. Matters concerning conditions creation to promote social enterprises;

3. Matters concerning the operation support for social enterprises; and
 4. Other matters as determined by the Presidential Decree for the purpose of promotion of and support for social enterprises.
- (3) The Minister of Labor shall establish and carry out the annual implementation plan every year according to the basic plan.
- (4) Matters necessary for the establishment and implementation of the basic plan and the annual implementation plan shall be determined by the Presidential Decree.

Article 6 (Research on the Actual Conditions)

The Minister of Labor shall conduct research on the actual conditions of activities done by social enterprises every five years and notify the result to the Support Committee.

Article 7 (Certification of Social Enterprises)

(1) Anyone who intends to run a social enterprise shall be certified by the Minister of Labor after meeting the certification requirements under Article 8.

(2) When certifying as referred to in paragraph (1), the Minister of Labor shall go through the deliberation of the Support Committee.

Article 8 (Certification requirements and Procedures of Social Enterprise)

(1) Anyone who intends to be certified as a social enterprise shall fall under any of the following subparagraph:

1. Having the form of organization determined by the Presidential Decree such as a corporation and association under the Civil Law or a company and non-profit private organization, etc. under the Commercial Act;
2. Carrying out business activities including production, sale, etc. of goods and services by hiring a paid employee;
3. The main purpose of the organization concerned shall be to realize a social purpose such as enhancing the quality of local residents' life by means of providing jobs or social services for the disadvantaged. In this case, the specific determination criteria shall be decided by the Presidential Decree;
4. Having a decision making process in which persons concerned such as service recipients, workers, etc. participate;
5. Profits made by business activities shall be more than the criteria determined by the Presidential Decree;

6. Having articles of association, rules, etc. in accordance with Article 9;
 7. When there are profits that can be distributed by fiscal year, 2/3 of the profits or more shall be spent for a social purpose (limited to a company under the Commercial Law); and
 8. Having other matters determined by the Presidential Decree.
- (2) When certifying a social enterprise, the Minister of Labor shall publish it in a governmental newspaper.
- (3) Matters necessary for certification requirements and procedures of a social enterprise shall be determined by the Ordinance of the Ministry of Labor.

Article 9 (Articles of Association, etc.)

(1) Anyone who intends to be certified as a social enterprise shall have the articles of association, rules, etc. (hereinafter referred to as "the articles of association, etc.") stating the following subparagraphs:

1. Purpose;
2. Contents of business;
3. Title;
4. Location of the main office;
5. Form and operating method of organization and governance, and decision making process of important matters;
6. Matters concerning profit sharing and re-investment;
7. Matters concerning contribution and financing;
8. Matters concerning the composition as well as appointment and dismissal of engaged persons;
9. Matters concerning dissolution and liquidation (when a company under the Commercial Law has remaining asset that can be distributed, 2/3 of the remaining asset or more shall be donated to other social enterprise, fund for public interests, etc.); and
10. Other matters as determined by the Presidential Decree

(2) When there is an alteration in the articles of association according to paragraph (1), this shall be reported to the Minister of Labor within 14 days of the day of alteration.

Article 10 (Operation Support, etc.)

(1) The Minister of Labor may provide various support such as specialized advice, information, etc. in areas of administration, technology, tax, labor, accounting, etc. which is needed for the operation of a social enterprise.

(2) The Minister of Labor may entrust the support business under paragraph (1) to a government-invested agency or a private organization determined by the Presidential Decree.

Article 11 (Support for Facility Expenses, etc.)

The nation or a local government may support or finance site expenses, facility expenses, etc. or lease state-owned land and co-owned land, which is necessary for the establishment or operation of a social enterprise.

Article 12 (Prior Purchasing of Public Institution)

(1) The head of a public institution under Article 2(8) of the Promotion of Small and Medium Enterprises and Encouragement of Purchase of Their Products Act (hereinafter referred to as "the head of a public institution") shall promote the prior purchasing of goods and services produced by a social enterprise.

(2) When the head of a public institution draws up a purchasing plan according to Article 12(1) of the Promotion of Small and Medium Enterprises and Encouragement of Purchase of Their Products Act, he shall divide the purchasing plan of goods and services produced by a social enterprise and include it in the purchasing plan. <Amended by Act No. 8361, Apr. 11, 2007>

Article 13 (Tax Reduction and Support for Social Insurance Premium)

(1) The nation and a local government may reduce national tax and local tax as determined by the Corporate Tax Act, the Restriction of Special Taxation Act, and the Local Tax Act.

(2) The nation may support a part of employment insurance premium and industrial accident compensation insurance premium according to the Act on the Collection, etc. of Employment Insurance and Industrial Accident Compensation Insurance Premium, insurance premium according to the National Health Insurance Act, and pension insurance premium according to the National Pension Act.

Article 14 (Financial Assistance for a Social Enterprise Providing Social Service)

(1) The Minister of Labor may provide a social enterprise providing social service with financial support such as labor costs, operating expenses, consultation expenses, etc. within the limit of the budget through public recruitment and examination.

(2) When providing assistance for a social enterprise which is connected to a company or a local government prescribed in

paragraph (1), the Minister of Labor may provide additional support of business expenses in consideration of the financial support conditions of a connected company or a connected local government.

(3) Matters necessary for the selection requisites, examination procedure, etc. of the object of financial support shall be determined by the Ordinance of the Ministry of Labor.

Article 15 (Responsibility Limit of a Connected Company)

A connected company shall not hold the employment responsibility for a worker of a social enterprise.

Article 16 (Tax Reduction for a Connected Company)

The nation or a local government may reduce national tax and local tax for a connected company as determined by the Corporate Tax Act, the Restriction of Special Taxation Act, and the Local Tax Act.

Article 17 (Report, etc.)

(1) A social enterprise shall draw up a business report stating matters determined by the Ordinance of the Ministry of Labor including business performance, interested parties' participation in decision making, etc. and submit it to the Minister of Labor until the end of February every fiscal year.

(2) The Minister of Labor shall instruct and supervise a social enterprise, and if deemed necessary, he/she may give a social enterprise and its member an order to make a report or submit a related document necessary for the business.

(3) The Minister of Labor may, if necessary, give a corrective order after reviewing the report or instructing and supervising under paragraph (1) and (2).

Article 18 (Cancellation of Certification)

(1) The Minister of Labor may cancel a certification when a social enterprise falls one of the following subparagraphs:

1. In case the person gets certification in false or other fraudulent ways; and
2. In case the person fails to have certification requirements under Article 8.

(2) The Minister of Labor shall hold a hearing in case of cancelling a certification under paragraph (1).

(3) Specific criteria and detailed procedures of a certification cancellation shall be determined in accordance with the standards set by the Ordinance of the Ministry of Labor.

Article 19 (Restriction of the Use of Similar Title)

Anyone who is not a social enterprise shall not use the title of social enterprise or a similar title.

Article 20 (Delegation of Authority)

Part of the authority given to the Minister of Labor under this Act may be delegated to the head of a local government or the head of an employment security agency under the requirements prescribed by the Presidential Decree.

Article 21 (Fine for Negligence)

(1) A person who falls under any of the following subparagraphs shall be punished by a fine for negligence not exceeding ten million won:

1. A person who fails to comply with an corrective order under Article 17 (3); and
2. A person who uses a social enterprise or a similar title in violation of Article 19.

(2) A person who falls under any of the following subparagraphs shall be punished by a fine for negligence not exceeding five million won:

1. A person who fails to comply with his/her duty to report the alteration of the articles of association, etc. under Article 9 (2);
2. A person who is negligent in his/her duty to draw up and submit a business report according to Article 17 (1) or makes a report in false or other fraudulent ways; and
3. A person who fails to make a report or submit a document according to Article 17 (2), or makes a false report.

(3) The fine for negligence under paragraph (1) and (2) shall be imposed and collected by the Minister of Labor under the requirements prescribed by the Presidential Decree.

(4) A person who is dissatisfied with the imposition of a fine for negligence under paragraph (3) may raise an objection against the Minister of Labor within 30 days of the notification of the imposition.

(5) If a person on whom a fine for negligence is imposed under paragraph (3), raises an objection pursuant to paragraph (4), the Minister of Labor shall notify the competent court thereof without delay, and the competent court shall try the case under the Non-contentious Case Litigation Procedure Act.

(6) If a person fails to pay a fine for negligence without raising an objection within the period prescribed in paragraph

(4), the fine for negligence shall be collected in accordance with the examples of disposition of national taxes in arrears.

Addendum <Act No. 8217, Jan. 3, 2007>

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

ADDENDA <Act No. 8361, Apr. 11, 2007>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation, but the revised provisions of Article 9 (7) of the Addenda shall enter into force on Jul. 1, 2007.

Articles 2 through 8 Omitted.

Articles 9 (Revision of Other Laws)

(1) through (6) Omitted.

(7) Parts of the Act on the Promotion of Social Enterprises shall be revised as follows:

"Article 10 (1) of the Promotion of Small and Medium Enterprises and Encouragement of Purchase of Their Products Act" as prescribed in Article 12 (2) shall be changed to "Article 12 (1) of the Promotion of Small and Medium Enterprises and Encouragement of Purchase of Their Products Act."

(8) through (17) Omitted.

Article 10 Omitted