

ACT ON FAIR TRANSACTIONS IN LARGE FRANCHISE AND RETAIL BUSINESS

Act No. 11086, Nov. 14, 2011

Amended by Act No. 11936, Jul. 16, 2013

Act No. 14136, Mar. 29, 2016

Act No. 14455, Dec. 20, 2016

Article 1 (Purpose)

The purpose of this Act is to contribute to the balanced national economic growth and development by maintaining fair transactional order in the large franchise and retail business and by enabling large franchise and retail business operators, suppliers, or sales floor tenants to prosper on an equal footing in a complementary relationship.

Article 2 (Definitions)

The terms used in this Act shall be defined as follows:

1. The term "large franchise and retail business operator" means any of the following persons (including "franchisers" prescribed by subparagraph 2 of Article 2 of the Fair Transactions in Franchise Business Act), who source goods used by consumers from multiple business operators and sell them:
 - (a) A person whose retail sales for the immediately preceding business year are at least 100 billion won (for business operators recognizing revenues by a net method under the corporate accounting standards, "retail sales" refer to the total sales and, for franchisers, the sum of retail sales and sales of goods sold to franchisees; Provided, That where business period in the immediately preceding business year is less than a year, "retail sales" refer to an amount converted from the revenues in the relevant period to 12-month period);
 - (b) A person who uses a store of which the total size of a sales floor (referring to the size calculated by multiplying the floor space of a sales floor by 95/100) is 3,000 square meters or more for retail business;
2. The term "supplier" means, irrespective of the type of transaction, a person who supplies goods to large franchise and retail business operators so that they would sell such goods (including cases of directly supplying consumers with goods having been sold by a large franchise and retail business operator);
3. The term "sales floor tenant" means a person engaged in a business in which he/she rents part of a sales floor from a large franchise and retail business operator, sells goods to be used by consumers

using such sales floor and pays the sales to the large franchise and retail business operator;

4. The term "direct purchase" means a transaction in which a large franchise and retail business operator purchases goods from a supplier and take responsibility for the sale of unsold goods among the goods he/she has purchased;

5. The term "purchase under a special contract" means a transaction in which a large franchise and retail business operator purchases goods on credit from a supplier on condition that he/she is allowed to return unsold goods among the goods he/she has purchased, and pays a sales amount after subtracting profit of a specific margin or of a specific amount after selling such goods;

6. The term "consignment sale" means a transaction in which a large franchise and retail business operator sells goods supplied by a supplier under its name and afterwards pays proceeds from the sales to the supplier, subtracting a rate of charge or an amount of charge;

7. The term "return" means all acts, irrespective of the form, of a large franchise and retail business operator giving supplied goods back to the suppliers, such as giving the goods to the suppliers, exchanging the goods with other goods sold by the suppliers, etc.;

8. The term "sales promotion" means, irrespective of the name or form, all events or activities performed for the purpose of increasing sales by expanding demand for goods;

9. The term "sales incentive" means, irrespective of the name, an economic benefit a supplier pays to a large franchise and retail business operator according to a condition indicated in the annual basic transaction agreement for sales promotion in the direct purchase;

10. The term "fresh agricultural, marine, and stock farm products" means agricultural, marine, and stock farm products in a fresh state which are apt to rot by nature with the passage of time, and are not processed through drying, seasoning, etc.

Article 3 (Exclusion from Application)

(1) This Act shall not apply to transactions where it is not deemed that a large franchise and retail business operator is in a superior bargaining position to a supplier or sales floor tenant (hereinafter referred to as "supplier, etc.").

(2) Whether a large franchise and retail business operator is in a superior bargaining position shall be decided by considering the following matters comprehensively:

1. Structure of a distribution market;
2. Actual state of consumption by consumers;
3. Business capability gap between a large franchise and retail business operator and a supplier, etc.;
4. Dependence of a supplier, etc. on transactions with a large franchise and retail business operator;
5. Characteristics of goods to be traded;
6. Extent of the type of large franchise and retail business operated by an enterprise group pursuant to subparagraph 2 of Article 2 of the Monopoly Regulation and Fair Trade Act or by a large franchise and retail business operator.

Article 4 (Relationship with Other Acts)

This Act shall apply to transactions between large franchise and retail business operators and suppliers, etc., notwithstanding Article 23 (1) 4 and 5 of the Monopoly Regulation and Fair Trade Act (excluding acts which obstruct the business activities of other business operators): Provided, That the said Act shall prevail over this Act if the transactions between large franchise and retail business operators and suppliers, etc. constitute entrustment with manufacturing prescribed by Article 2 (6) of the Fair Transactions in Subcontracting Act.

Article 5 (Principle of Good Faith)

Large franchise and retail business operators, suppliers, etc. shall perform their obligations in transactions in good faith.

Article 6 (Delivery and Preservation of Documents, etc.)

(1) Immediately after entering into a contract with a supplier, etc., a large franchise and retail business operator shall give to the supplier, etc. documents in which the transaction type, and other matters prescribed by Presidential Decree are specified (such documents including electronic documents prescribed by subparagraph 1 of Article 2 of the Framework Act on Electronic Documents and Transactions; hereafter the same shall apply in this Act).

(2) Large franchise and retail business operators, suppliers, etc. shall put their signature (including certified electronic signatures prescribed by subparagraph 3 of Article 2 of the Digital Signature Act; hereafter the same shall apply in this Act) or write their name and affix their seal on the documents prescribed by paragraph (1).

(3) Until providing suppliers with documents prescribed by paragraph (1), large franchise and retail business operators shall not have suppliers manufacture or order goods to be supplied, nor they shall request suppliers to prepare facilities and equipment for goods to be supplied: Provided, That this shall not apply if large franchise and retail business operators request in writing with their signatures put or with their names written and seals affixed.

(4) Where large franchise and retail business operators fail to provide documents prescribed by paragraph (1), suppliers, etc. may request that large franchise and retail business operators confirm the details of contract by notifying them in writing of the contractual matters prescribed by Presidential Decree pursuant to paragraph (1).

(5) Large franchise and retail business operators shall send a written reply specifying whether they approve or disapprove the content of notification prescribed by paragraph (4) within 15 days from the receipt of such notification; where they fail to send a reply within such period, it shall be presumed that the contract has been made as notified by the suppliers, etc. pursuant to paragraph (4): Provided, That this shall not apply if sending a reply is impossible due to a natural disaster or calamity.

(6) Suppliers, etc. shall affix their signatures or names with seals on the notification prescribed in paragraph (4), and large franchise and retail business operators shall affix their signatures or names with seals on the reply prescribed in paragraph (5), respectively.

(7) Matters necessary for the notification prescribed by paragraph (4) and a reply prescribed by paragraph (5) shall be prescribed by Presidential Decree.

(8) Large franchise and retail business operators shall preserve documents prescribed by Presidential Decree concerning transactions between large franchise and retail business operators and suppliers, etc. for five years from the date a contract with suppliers, etc. terminates.

(9) The Fair Trade Commission may recommend large franchise and retail business operators governed by this Act or business operators' associations consisting of large franchise and retail business operators to prepare and use a standard transaction contract.

Article 7 (Prohibition of Reduction in Payment of Goods)

(1) A large franchise and retail business operators shall not reduce the payment of goods being supplied: Provided, That this shall not apply where justifiable reasons exist, such as that the goods being supplied are different from the goods set forth in the contract, are damaged, or are spoiled for reasons for which the supplier is responsible, etc. and that the price of goods is reduced within a period recognized as reasonable in the relevant trade.

(2) Where reduction in the payment of goods prescribed by the proviso to paragraph (1) is for fresh agricultural, marine and stock farm products, reduction shall be made within the period prescribed by Presidential Decree.

Article 8 (Payment of Proceeds from Sale)

(1) In any of the following cases, large franchise and retail business operators shall pay the suppliers, etc. the proceeds from sale of the relevant goods within 40 days from the monthly closing date:

1. Where goods supplied according to a purchase transaction under a special contract are sold;
2. Where they manage proceeds from sale given by floor tenants;
3. Where they are entrusted with the sale of goods by suppliers, and receive and manage proceeds from sale.

(2) Where large franchise and retail business operators make payment required under paragraph (1) more than 40 days after the monthly closing date, they shall pay interest, the rate of which shall be determined and publicly announced by the Fair Trade Commission taking into account overdue interest applied by banks under the Banking Act and other economic conditions.

(3) A large franchise and retail business operators shall not pay the proceeds and interest prescribed by paragraphs (1) and (2) by merchandise coupons or in kind.

Article 9 (Prohibition of Refusal or Delay of Receipt of Goods)

After a large franchise and retail business operator and a supplier enters into a contract concerning the supply of goods, the large franchise and retail business operator shall not refuse or delay receipt of all or any of the relevant goods: Provided, That this shall not apply in events prescribed by Presidential Decree, such as that the supplied goods have been damaged due to a reason for which the supplier is responsible, etc.

Article 10 (Prohibition of Return of Goods)

(1) A large franchise and retail business operator shall not return all or any of supplied goods without justifiable reasons: Provided, That justifiable reasons are presumed to exist in any of the following cases if the goods are returned within a period deemed reasonable in the relevant trade:

1. Where conditions of return have been agreed in detail at the time of concluding a contract and documents clarifying such conditions of return are delivered to the supplier in cases of a purchase under a special contract;
2. In cases of consignment sale;
3. Where the goods being supplied are damaged or spoiled due to the supplier's fault;
4. Where the goods being supplied are different from the goods set forth in the contract;
5. Where the large franchise and retail business operator voluntarily assumes the loss incurred from return and obtains approval therefor from the relevant supplier;
6. Where conditions of return have been agreed in detail at the time of concluding a contract for goods (excluding fresh agricultural, marine and stock farm products), sale of which is concentrated in a certain period or season and documents clarifying such conditions of return are delivered to the supplier in cases of a direct purchase transaction;
7. Where the supplier voluntarily makes a written request for the return of goods, accompanied by objective grounds that the return of goods is directly beneficial to it before the date of return in cases of a direct purchase;
8. Where a franchisee returns goods pursuant to subparagraph 3 of Article 2 of the Fair Transactions in Franchise Business Act and the franchiser returns those goods to the supplier, as prescribed by Presidential Decree;
9. Where justifiable reasons corresponding to the provisions of subparagraphs 3 through 8 exist in cases of a direct purchase.

(2) The fresh agricultural, marine and stock farm products prescribed by paragraph (1) 3 and 4 shall be returned within the period prescribed by Presidential Decree.

Article 11 (Prohibition on Unjustly Shifting Burden of Sales Promotional Expenses)

(1) Unless the burden of expenses incurred in a sales promotional event (hereafter referred to as "sales promotional expenses" in this Article) is agreed upon with suppliers, etc. as prescribed by Presidential Decree before any sales promotional event is held, no large franchise and retail business operator shall impose such expenses on a supplier, etc.

(2) The contract pursuant to paragraph (1) shall be made in written form on which signatures or names and seals of a large franchise and retail business operator and a supplier, etc., are placed, and the large franchise and retail business operator shall deliver such documents to the supplier, etc. as soon as such contract is concluded.

(3) The ratio of sharing sales promotional expenses pursuant to paragraphs (1) and (2) shall be determined according to the ratio of economic profit (hereafter referred to as "expected profit" in this Article) a large

franchise and retail business operator and a supplier, etc. are expected to directly earn respectively through sales promotional event, however, where the ratio of expected profit for large franchise and retail business operator, supplier, etc. is incalculable, the expected profit of the large franchise and retail business operator, supplier, etc. is presumed equal.

(4) The share of sales promotional expenses pursuant to paragraph (3) to be assumed by a supplier, etc. shall not exceed 50/100.

(5) Where a supplier, etc. intends to hold a sales promotional event separately from other suppliers, etc. by voluntarily making a request to a large franchise and retail business operator, the large franchise and retail business operator may consult with the supplier, etc. and determine the share of sales promotional expenses. In such cases, the provisions of paragraphs (1) through (4) shall not apply.

Article 12 (Prohibition, etc. against Use of Employees by Suppliers, etc.)

(1) A large franchise and retail business operator shall not request a supplier, etc. to dispatch employees or other human resources employed by such supplier, etc. (hereafter referred to as "employees, etc.") to work in the workplace of the large franchise and retail business operator: Provided, That this shall not apply in any of the following cases, in which the large franchise and retail business operator, the supplier, etc. agree on the terms of dispatch in writing and have such dispatched employees engage in the sale and management of goods supplied by the supplier, etc. who employ such employees, etc.:

1. Where large franchise and retail business operators bear all the expenses, such as labor costs of the dispatched employees, etc., as prescribed by Presidential Decree;
2. Where the suppliers, etc. request large franchise and retail business operators to voluntarily dispatch employees, etc. employed by them according to documents specifying the details of expected profits and expenses following the dispatch of employees, etc. and grounds for calculation, which is prepared objectively and concretely;
3. Where skilled employees, etc. who have special sales skills or ability are dispatched;
4. Where employees, etc. are dispatched to the sales floor operated at all times by suppliers, etc., who conduct purchase transactions under special contracts, in order to sell and manage the goods determined and publicly notified by the Fair Trade Commission as ones for which specialized knowledge is important due to the special qualities of such goods.

(2) A large franchise and retail business operator, a supplier, etc. shall affix their signatures or names with seals on the documents prescribed in the proviso to paragraph (1), and the supplier, etc. shall affix its signature or name with seal on the documents prescribed in paragraph (1) 2, respectively.

(3) A large franchise and retail business operator shall not have a supplier, etc. to bear the labor costs of persons employed by it.

Article 13 (Prohibition of Forcing Exclusive Dealing)

A large franchise and retail business operator shall not unduly have a supplier, etc. do exclusive transactions and shall not interfere with the supplier, etc. in their transactions with other business operators.

Article 14 (Prohibition of Request for Management Information)

(1) A large franchise and retail business operator shall not unduly request a supplier, etc. to provide information falling under any of the following subparagraphs:

1. Information concerning the supply terms (including supply price) for the goods which suppliers supply to other business operators;
2. Information concerning the lease terms (including rental rate) to open a sales floor in other business operators' stores;
3. Other management information equivalent to the information described in subparagraphs 1 and 2, relating to the supplier, etc. or transaction partners of the supplier, etc., as prescribed by Presidential Decree.

(2) Where a large franchise and retail business operator requests a supplier, etc. for management information falling under any of the subparagraphs of paragraph (1), it shall provide the supplier, etc. with documents stating the purpose of a request, matters concerning the maintenance of confidentiality, etc. before requesting management information, as prescribed by Presidential Decree.

(3) A large franchise and retail business operator, a supplier, etc. shall affix their signatures or names with seals on the documents prescribed by paragraph (2).

(4) Where a large franchise and retail business operator requests a supplier, etc. for management information, it shall make a request within the minimum extent necessary for the purpose of such request.

Article 15 (Prohibition of Requests for Economic Profits)

(1) A large franchise and retail business operator shall not have a supplier, etc., provide money, articles, services or other economic profits to it or a third party without justifiable reasons.

(2) Notwithstanding the provisions of paragraph (1), a large franchise and retail business operator may agree with a supplier on the details of an annual basic contract, including the purpose of paying a sales incentive, timing for payment, frequency of payment, rate and amount of sales incentive, etc. as prescribed by Presidential Decree and receive a sales incentive from the supplier. In such cases, the sales incentive shall not exceed the extent recognized as reasonable in the relevant trade.

Article 16 (Compensation for Costs of Equipment for Sales Floor)

Where a large franchise and retail business operator performs an act falling under any of the following subparagraphs, it shall pay compensation for equipment costs of the relevant sales floor to the supplier, etc., the amount of which shall be at least an amount obtained by multiplying the total equipment costs, paid by a supplier, etc. for the relevant sales floor, by the ratio of the period, from the time of such act to the final day of the contract, to the whole contract period (if the contract period is shorter than a year, the contract period shall be construed one year; hereafter the same shall apply in this Article):

1. Interrupting or rejecting a transaction with the supplier, etc.;
2. Changing the location, size or facilities of the sales floor of the supplier, etc.

Article 17 (Prohibition against Requests for Purchase of Merchandise Coupons, etc.)

Large franchise and retail business operator shall not perform any of the following acts against a supplier, etc. without justifiable grounds:

1. Having the supplier, etc purchase merchandise coupons or articles;
2. Having the supplier, etc supply goods at a remarkably lower supply price than the usual supply price to markets;
3. Having the supplier, etc supply a remarkably higher quantity than normal quantity in order to hold a sales promotional event;
4. Having the supplier, etc participate in a sales promotional event contrary to the will of the supplier, etc.;
5. Failing or delaying restoration of the supply price, of which reduction has been agreed upon for a limited period, to the ordinary price even after such period passes;
6. Having the supplier, etc. advertise goods contrary to their will;
7. Interfering with the supplier, etc. in closing a sales floor in a particular store or having the supplier, etc. open a sales floor in its other store, contrary to the will of the supplier, etc.;
8. Changing the location, size or facilities of a sales floor of the supplier, etc. during the contract period;
9. Changing the terms of a contract prescribed by Presidential Decree, such as the rate of sales incentive during the contract period;
10. Other acts corresponding to the provisions of subparagraphs 1 through 9 that give disadvantages to the supplier, etc. or cause the supplier, etc. to provide advantages.

Article 18 (Prohibition of Giving Disadvantages, etc.)

For the reason that a supplier, etc. reports or notifies the relevant agency of an illegal act of a large franchise and retail business operator, the large franchise and retail business operator shall not change the terms of a contract to the disadvantage of the supplier, etc., restrict the supplier, etc. from the opportunity of supplying goods or renting a sales floor, or give any disadvantage in the course of implementing the contract.

Article 19 (Concluding Agreements among Large Franchise and retail business Operators and Suppliers, etc.)

(1) The Fair Trade Commission may recommend a large franchise and retail business operator, a supplier, etc. to conclude an agreement promising the observance of Acts and subordinate statutes relating to large franchise and retail business, mutual assistance and cooperation.

(2) Where a large franchise and retail business operator, a supplier, etc. conclude an agreement pursuant to paragraph (1), the Fair Trade Commission shall prepare and implement measures for assistance, such as granting a reward, etc. in order to encourage the implementation thereof.

(3) The Fair Trade Commission shall determine matters necessary for the details, conclusion procedures, implementation evaluation, and supporting measures, etc. of an agreement prescribed in paragraph (1).

Article 20 (Establishment and Organization of Dispute Settlement Council)

(1) In order to settle disputes between large franchise and retail business operators and suppliers, etc., a dispute mediation council for transactions in large franchise and retail business (hereafter referred to as the "council" in this Article) shall be established in the Korea Fair Trade Mediation Agency (hereinafter referred to as the "Mediation Agency") pursuant to Article 48-2 (1) of the Monopoly Regulation and Fair Trade Act.

(2) The council shall consist of nine members including one chairperson.

(3) The members shall be classified into members representing public interest, members representing the interest of large franchise and retail business operators and members representing the interest of suppliers, etc., and each group shall be of the same number of members.

(4) Persons appointed or entrusted by the Chairperson of the Fair Trade Commission from among the persons recommended by the head of the Mediation Agency and the persons falling under any of the following subparagraphs shall become its members:

1. Persons who have majored in jurisprudence, economics, business administration or studies relating to distribution in universities, and hold or have held the position of an associate professor or higher or a position corresponding thereto in a school pursuant to subparagraph 1, 2, 4 or 5 of Article 2 of the Higher Education Act or a publicly certified research institution;

2. Persons who hold or have held the position of a judge or public prosecutor, or persons who have an attorney license;

3. Persons who hold or have held the position of a public official of Grade 4 or higher (including public officials in the general service belonging to the Senior Civil Service) having experience in the duties of monopoly regulation and fair trade;

4. Persons who have abundant knowledge and experience concerning transactions and dispute resolution in the field of large franchise and retail business.

(5) The chairperson shall be appointed or commissioned by the Chairperson of the Fair Trade Commission from among members representing public interest.

(6) The term of office of the members shall be three years, and they may be reappointed.

(7) If a vacancy among members occurs, a member filling the vacancy shall be appointed or entrusted as prescribed by paragraph (4) and the term of office of such member shall be the remaining term of office of his/her predecessor.

Article 21 (Restrictions on Persons Commissioned for Membership Representing Public Interest)

(1) One shall not be commissioned as a member representing public interest if he/she is an executive or an employee of a large franchise and retail business operator, supplier, etc. at the time of the commissioning.

(2) Where a person entrusted with the membership representing public interest is an executive or employee of a large franchise and retail business operator or a supplier, etc., the Chairperson of the Fair Trade Commission shall immediately revoke such entrustment.

Article 22 (Meetings of Council)

(1) The meetings of the council shall be classified into meetings consisting of all the members (hereafter referred to as "plenary meeting" in this Article) and meetings consisting of one member representing public interest, one member representing the interest of large franchise and retail business operators and one member representing the interest of suppliers, etc. (hereafter referred to as "small meeting" in this Article).

(2) The plenary meeting shall deliberate and decide on the following matters:

1. Matters that are not decided by the small meeting or decided to be handled in the plenary meeting by the small meeting;
2. Matters concerning establishment and revision of internal regulations of the council;
3. Other matters that are submitted to the plenary meeting by the chairperson by the need to be handled in the plenary meeting.

(3) The small meeting shall deliberate and decide on matters other than those in the subparagraphs of paragraph (2).

(4) The chairperson shall have charge of the plenary meeting which opens with a majority of the enrolled members in attendance and makes decisions with the approval of a majority of members present.

(5) A member representing public interest shall have charge of the small meeting, at which decisions shall be made with the attendance of all members and with the approval of all members present. In such cases, the result of the meeting shall be reported to the plenary meeting.

(6) When the chairperson of the council is unable to perform duties due to inevitable reasons, a member designated by the Chairperson of the Fair Trade Commission from among members representing public interest shall perform such duties by proxy.

(7) A business operator who is a party to a dispute subject to mediation (hereinafter referred to as "party to a dispute") may attend the meetings of the council and state his/her opinion or submit relevant data.

Article 23 (Exclusion, Challenge or Recusal of Members)

(1) If a member falls under any of the following subparagraphs, he/she shall be excluded from the mediation of the relevant matters to be mediated:

1. Where a member, his/her spouse or a person who has been his/her spouse becomes a party to a dispute of the relevant matters to be mediated, or is a joint holder of a right or liability;
2. Where a member is a relative or has been a relative of a party to a dispute of the relevant matters to be mediated;
3. Where a member, or corporation or law firm with which a member is affiliated is giving counsel or advice on legal matters, business management, etc. to a party to a dispute;
4. Where a member, or corporation or law firm with which a member is affiliated participates or has participated in the relevant matters to be mediated as an agent of the party to a dispute, or has given evidence or an expert opinion.

(2) Where a member has a reason for which he/she is unable to conduct mediation impartially, parties to a dispute may apply a written challenge of such member to the council.

(3) Where the application for challenge prescribed by paragraph (2) is contrary to the method prescribed by paragraph (2) or is evidently aimed at delaying mediation, such challenge shall be rejected by a decision of the chairperson.

(4) Where reasonable grounds exist in the application for challenge pursuant to paragraph (2), relevant member shall be excluded from mediation by a decision of the chairperson.

(5) Where a member falls under a reason prescribed by paragraph (1) or (2), he/she may recuse himself/herself from the mediation of matters to be mediated with the permission of the chairperson.

Article 24 (Matters to Be Mediated by Council)

The council shall mediate matters requested by the Fair Trade Commission or applied for by parties to a dispute, which are related to the provisions of Articles 5 through 18.

Article 25 (Application for Mediation, Etc.)

(1) Parties to a dispute may file an application for mediation with the council by submitting documents stating matters prescribed by Presidential Decree, which are related to the matters to be mediated pursuant to Article 24: Provided, That excluded herefrom is a case being investigated by the Fair Trade Commission pursuant to Article 29 before an application for mediation is filed.

(2) The Fair Trade Commission may request the council to mediate a case relating to a dispute between a large franchise and retail business operator and a supplier, etc.

(3) Upon receipt of an application for mediation filed under paragraph (1), the council shall immediately notify the parties to a dispute of such application for mediation.

(4) The application for mediation filed under paragraph (1) shall have the effect of interrupting prescription: Provided, That this shall not apply where the application is withdrawn or dismissed. *<Newly Inserted by Act No. 14136, Mar. 29, 2016>*

(5) In the case falling under the proviso to paragraph (4), the prescription shall be deemed to be interrupted by the first application for mediation where a demand by way of judicial proceedings, intervention in bankruptcy proceedings, attachment, provisional attachment, or provisional disposition is made within six months. *<Newly Inserted by Act No. 14136, Mar. 29, 2016>*

(6) Prescription that has been interrupted under the main sentence of paragraph (4) begins to run anew from any of the following: *<Newly Inserted by Act No. 14136, Mar. 29, 2016>*

1. When a mediation settlement agreement is concluded after a dispute is successfully mediated;
2. When the mediation procedure terminates as a dispute is not settled by mediation.

Article 26 (Mediation, Etc.)

(1) Upon receipt of an application for mediation filed under Article 25 (1) or a request for mediation made under paragraph (2) of the same Article, the council shall initiate the mediation procedure without delay, as prescribed by Presidential Decree. *<Newly Inserted by Act No. 14136, Mar. 29, 2016>*

(2) The council may recommend the parties to a dispute to reach an agreement on the matters of dispute voluntarily, or prepare a settlement proposal and present it to the parties to a dispute. *<Amended by Act No. 14136, Mar. 29, 2016>*

(3) The council may conduct an inspection, or request the parties to a dispute to submit data or to attend in person where necessary to ascertain the facts concerning the relevant matters of dispute to be mediated.

<Amended by Act No. 14136, Mar. 29, 2016>

(4) The council shall dismiss an application for mediation in the following cases: *<Amended by Act No. 14136, Mar. 29, 2016>*

1. Where the application for mediation is filed by a person who has no direct interest in the dispute to be mediated;
2. Where the application for mediation is filed, to which this Act does not apply, or for a case that is not a matter to be mediated under Article 24;
3. Where the application for mediation is filed, although the proviso to Article 25 (1) applies to the relevant dispute.

(5) The council may terminate the mediation procedure in the following cases: *<Amended by Act No. 14136, Mar. 29, 2016>*

1. Where a party to a dispute withdraws from the mediation;
2. Where a party to a dispute has filed a lawsuit in the court before or after filing an application for mediation, or files an application for arbitration as prescribed by the Arbitration Act after having filed an application for mediation;
3. Where any cause or event prescribed by Presidential Decree occurs, of which mediation is of no practical benefit.

(6) The council shall terminate the mediation procedure in any of the following cases: *<Amended by Act No. 14136, Mar. 29, 2016>*

1. Where parties to a dispute accept the council's recommendation or settlement proposal, or reach an agreement and the dispute is mediated;
2. Where parties to a dispute do not accept the council's recommendation or settlement proposal, and consequently the dispute is not mediated;
3. Where the council fails to mediate the dispute after 60 days (90 days where both parties to a dispute agree to extend the period) from the date of notification of an application for mediation.

(7) Where the council dismisses an application for mediation or terminates the mediation procedure pursuant to paragraphs (4) through (6), the council shall, without delay, file a report on the details of mediation, grounds for dismissing the application for mediation or for terminating the mediation procedure with the Fair Trade Commission, along with relevant documents, as prescribed by Presidential Decree, and notify the parties to a dispute of such fact. *<Amended by Act No. 14136, Mar. 29, 2016>*

(8) The Fair Trade Commission shall not issue a corrective order pursuant to Article 32 or make a recommendation for corrective measures pursuant to Article 33 (1) to the relevant parties to a dispute until the mediation procedure terminates: Provided, That this shall not apply where the Fair Trade Commission is already conducting an investigation pursuant to Article 29. *<Amended by Act No. 14136, Mar. 29, 2016>*

Article 27 (Preparation and Validity of Mediation Settlement Agreement)

(1) Upon mediating matters in dispute successfully, the council shall prepare a mediation settlement agreement in which the mediator(s) and parties to the dispute affix their name and seal. *<Amended by Act No. 14136, Mar. 29, 2016>*

(2) Where parties to a dispute reaches an agreement on the matters in dispute voluntarily and request the council to prepare a mediation settlement agreement, it shall prepare a mediation settlement agreement. *<Amended by Act No. 14136, Mar. 29, 2016>*

(3) Parties to a dispute shall implement matters agreed upon at the mediation and submit the result of implementation to the Fair Trade Commission.

(4) Where an agreement is reached under paragraph (1) or (2) and such agreement is implemented, the Fair Trade Commission shall not issue a corrective order pursuant to Article 32 or make a recommendation for corrective measures pursuant to Article 33 (1), except in extenuating circumstances.

(5) A mediation settlement agreement prepared under paragraph (1) or (2) shall have the same effect as reconciliation in trial. *<Newly Inserted by Act No. 14136, Mar. 29, 2016>*

Article 28 (Organization, Operation, etc. of Council)

Matters necessary for the organization, operation, mediation processes, etc. of the Council in addition to the matters prescribed by Articles 20 through 27 shall be prescribed by Presidential Decree.

Article 29 (Investigation of Violations, Etc.)

(1) Any person who recognizes any violation of this Act may file a report such violation with the Fair Trade Commission. In such cases, the Fair Trade Commission shall give written notice to the large franchise and retail business operator involved of the fact that it has received a report with the consent of a reporter, as prescribed by Presidential Decree. *<Amended by Act No. 14136, Mar. 29, 2016>*

(2) Where the Fair Trade Commission suspects a violation of this Act, it may conduct a necessary investigation ex officio.

(3) Upon having conducted an investigation pursuant to paragraph (1) or (2), the Fair Trade Commission shall give the parties to the relevant case a written notice of the findings (where it intends to take measures, such as issuing a corrective order, as a result of the investigation, the details of such measures shall be included in such notice).

(4) The Fair Trade Commission may award a monetary reward within budgetary limits to a person who files a report or gives information on any violation of this Act and submits evidentiary materials verifying such violation.

(5) Scope of violations of this Act, giving information on which is eligible for monetary rewards under paragraph (4), scope of persons eligible for the monetary rewards, criteria and procedure for awarding such monetary rewards, and other necessary matters shall be prescribed by Presidential Decree.

(6) A written notice given by the Fair Trade Commission to the large franchise and retail business operator involved under the latter part of paragraph (1) shall be deemed a peremptory notice given under Article 174 of the Civil Act: Provided, That this shall not apply where the reported fact is not subject to the

application of this Act; the Fair Trade Commission determines not to initiate the deliberation procedure since the period of restrictions on disposition imposed on violations under the main sentence of Article 31 expires; the Fair Trade Commission determines that the reported fact is free from suspicion; or a reporter withdraws the report. <Newly Inserted by Act No. 14136, Mar. 29, 2016>

Article 30 (Documentary Inspection of Actual Condition)

(1) In order to establish fair order in transactions in the large franchise and retail business, the Fair Trade Commission shall conduct a documentary inspection of actual condition of transactions between large franchise and retail business operators and suppliers, etc. and make public the result of such inspection.

(2) Where the Fair Trade Commission intends to conduct a documentary inspection of actual condition as prescribed by paragraph (1), it shall establish a plan on the scopes of persons to be inspected, inspection period, inspection details, inspection methods, inspection procedures, extent of publicizing the result of inspection, etc. and may request the persons to be inspected to submit data necessary for the inspection of actual condition of transactions, etc.

(3) Where the Fair Trade Commission requests the persons to be inspected to submit data as prescribed by paragraph (2), it shall specify the extent and details of data, reasons for requests, deadlines for submission, etc. in writing to the persons to be inspected.

Article 31 (Restrictions on Disposition Imposed on Violations)

Where five years elapse from the date the violation of this Act ceases, the Fair Trade Commission shall not issue a corrective order, impose penalty surcharges, etc. pursuant to this Act for the relevant violation: Provided, That in cases where a corrective order or disposition of imposing penalty surcharges is revoked according to a judicial decision, and new disposition is issued by reason of such judicial decision, this shall not apply.

Article 32 (Corrective Orders)

Where a large franchise and retail business operator violates Article 6 (1) through (3), Articles 7 through 10, Article 11 (1) through (4) and Articles 12 through 18, the Fair Trade Commission may order corrective measures including ceasing such violation, prevention of further violation, payment of proceeds from sale, compensation for expenses for equipment on the sales floor, removal or revision of contract provisions, public announcement of the fact of receiving corrective orders, notification to the other party of the transaction such as a supplier, etc. of the fact of receiving corrective orders, and report on plans or actions for rectifying the violation.

Article 33 (Recommendation for Corrective Measures)

(1) The Fair Trade Commission may recommend a large franchise and retail business operator to prepare corrective measures as prescribed by Presidential Decree and comply therewith. In such cases, the Fair Trade Commission shall also notify the large franchise and retail business operator of the gist that if he/she accepts such recommendation, it is deemed that the Fair Trade Commission has issued a corrective order.

(2) Upon receiving a recommendation pursuant to paragraph (1), a large franchise and retail business operator shall notify the Fair Trade Commission whether it accepts such recommendation within ten days from the date of the receipt.

(3) When a large franchise and retail business operator who receives a recommendation pursuant to paragraph (1) accepts such recommendation, it is deemed that he/she has been issued a corrective order pursuant to Article 32.

Article 34 (Deposits)

If repayment to a supplier, etc. is not made or is not possible, a large franchise and retail business operator who receives a corrective order pursuant to Article 32 or accepts a recommendation for corrective measures pursuant to Article 33 (1) shall deposit the subject matter of repayment for the supplier, etc. and thus be released from the fulfillment of the obligation. The same shall apply to cases in which the supplier, etc. is unknown to the large franchise and retail business operator.

Article 35 (Penalty Surcharges)

(1) The Fair Trade Commission may impose a penalty surcharge on a large franchise and retail business operator who violates Article 6 (1) through (3), Articles 7 through 10, Article 11 (1) through (4) and Articles 12 through 18 within the extent not exceeding the amount of supplied goods according to the calculation method prescribed by Presidential Decree or annual rents: Provided, That where the calculation of sales is not possible, etc., the Commission may impose a penalty surcharge within the extent not exceeding 500 million won.

(2) Penalty surcharges under paragraph (1) shall be calculated separately for each provision governing violations but the total sum shall not exceed twice the amount of supplied goods in accordance with the calculation method prescribed by Presidential Decree or twice the annual rents pursuant to paragraph (1).

(3) The provisions of Articles 55-3 through 55-8 of the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis to the imposition and collection of penalty surcharges pursuant to paragraph (1).

Article 36 (Timing for Judgment on Violations)

Where the Fair Trade Commission decides on violation of this Act, it shall make a decision, based on facts which have occurred until the date on which examination of such act is concluded.

Article 37 (Cooperation from Heads of Relevant Administrative Agencies)

(1) The Fair Trade Commission may hear the opinions of the heads of relevant administrative agencies where deemed necessary for enforcing this Act.

(2) The Fair Trade Commission may request the heads of relevant administrative agencies to conduct necessary inspections or to provide necessary data where deemed necessary for enforcing this Act.

(3) The Fair Trade Commission may request necessary cooperation from the heads of relevant administrative agencies where deemed necessary for guaranteeing the compliance of a corrective order issued under this Act

(4) The head of any relevant administrative agency in receipt of the Fair Trade Commission's request to conduct inspections or to provide necessary data under paragraph (2) or to provide cooperation under

paragraph (3) shall comply therewith, except in extenuating circumstances. <Newly Inserted by Act No. 14455, Dec. 20, 2016>

Article 38 (Monopoly Regulation and Fair Trade Act to Be Applied Mutatis Mutandis)

(1) Articles 42, 43, 43-2, 44, 45, 52 and 52-2 of the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis to any deliberation and decision made pursuant to this Act by the Fair Trade Commission.

(2) Articles 53, 53-2, 53-3, 54, 55 and 55-2 of the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis to the raising of an objection against the disposition of the Fair Trade Commission, to the filing of a lawsuit and to the jurisdiction for an appeal.

(3) Articles 50 (1) through (4), 50-2 and 50-3 of the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis to the examination and hearing opinions by the Fair Trade Commission necessary for the implementation of this Act.

(4) Articles 56, 56-2 and 57 of the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis to the responsibility for compensation for damage suffered by a supplier, etc. due to the violations of this Act by a large franchise and retail business operator.

(5) Article 62 of the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis to the commissioners and public officials of the Fair Trade Commission who perform or have performed a duty pursuant to this Act or to persons who perform or have performed a duty of mediation of disputes at the Council.

Article 39 (Penal Provisions)

(1) Any person who falls under any of the following subparagraphs shall be punished by imprisonment for not more than two years or a fine not exceeding 150 million won:

1. A person who imposes exclusive dealing on a supplier, etc. or interferes with a supplier, etc. in his/her transactions with other business operators, in violation of Article 13;
2. A person who demands a supplier, etc. provide information, in violation of Article 14 (1);
3. A person who changes the terms of a contract to the disadvantage of a supplier, etc., restricts a supplier, etc. from the opportunity of supplying goods or renting a sales floor or gives disadvantages in the course of implementing the contract, in violation of Article 18;
4. A person who fails to comply with a corrective order pursuant to Article 32.

(2) A person who renders a fake expert opinion pursuant to Article 50 (1) 2 of the Monopoly Regulation and Fair Trade Act which applies mutatis mutandis as prescribed by Article 38 (3) shall be punished by a fine not exceeding 100 million won.

(3) A person who divulges confidential information or uses confidential information for a purpose other than for the implementation of this Act in violation of Article 62 of the Monopoly Regulation and Fair Trade Act which applies mutatis mutandis as prescribed by Article 38 (5) shall be punished by imprisonment for not more than two years or a fine not exceeding two million won.

Article 40 (Joint Penal Provisions)

When a representative of a corporation, or an agent, an employee, or any other worker employed by a corporation or an individual violates Article 39 (1) or (2) in connection with the business of such corporation or individual, not only shall such violator be punished but also such corporation or individual shall be punished by a fine prescribed by the relevant Article: Provided, That the same shall not apply where the corporation or individual has not neglected to exercise due diligence and supervision over the relevant business in order to prevent such violation.

Article 41 (Fines for Negligence)

(1) Where a large franchise and retail business operator falls under any of subparagraphs 1 through 3, it shall be subject to a fine for negligence not exceeding 100 million won; where it falls under subparagraph 4, it shall be subject to a fine for negligence not exceeding 200 million won:

1. Failing to submit data prescribed by Article 30 (2) or submits false data;
2. Failing to present himself/herself without a justifiable reason in violation of Article 50 (1) 1 of the Monopoly Regulation and Fair Trade Act which applies mutatis mutandis as prescribed by Article 38 (3);
3. Failing to make a report, or fails to submit necessary data or articles prescribed by Article 50 (1) 3 or (3) of the Monopoly Regulation and Fair Trade Act which applies mutatis mutandis as prescribed by Article 38 (3);
4. Refusing, obstructing or evading an inspection pursuant to Article 50 (2) of the Monopoly Regulation and Fair Trade Act which applies mutatis mutandis as prescribed by Article 38 (3).

(2) Where an executive or employee of a large franchise and retail business operator or other interested person falls under the provisions of paragraph (1) 1 through 3, a fine for negligence not exceeding ten million won shall be imposed on him/her, and where he/she falls under subparagraph 4, a fine for negligence not exceeding 50 million won shall be imposed on him/her.

(3) A fine for negligence not exceeding ten million won shall be imposed on a person who fails to preserve important documents, such as contracts, etc., in violation of Article 6 (8).

(4) A fine for negligence not exceeding one million won shall be imposed on a person who fails to comply with an order to maintain good order, in violation of Article 43-2 of the Monopoly Regulation and Fair Trade Act which applies mutatis mutandis as prescribed by Article 38 (1);

(5) Fines for negligence prescribed by the provisions of paragraphs (1) through (4) shall be imposed and collected by the Fair Trade Commission, as prescribed by Presidential Decree.

Article 42 (Complaints)

(1) Violations prescribed by Article 39 (1) may be prosecuted only where the Fair Trade Commission files a complaint.

(2) Where the Fair Trade Commission recognizes that a violation prescribed by Article 39 (1) is objectively so obvious and severe as to substantially hinder order in transactions in the large franchise and retail business, the Fair Trade Commission shall file a complaint to the Prosecutor General.

(3) The Prosecutor General may notify the Fair Trade Commission that a fact that constitutes the grounds for complaint prescribed by paragraph (2) exists, and request it to file a complaint.

(4) Even when the Fair Trade Commission decides that the case does not constitute the grounds for complaint under paragraph (2), the chairman of the Board of Audit and Inspection and the Administrator of the Small and Medium Business Administration may request the Fair Trade Commission to file a complaint on other grounds, such as social impacts and the degree of damage to suppliers, etc. *<Newly Inserted by Act No. 11936, Jul. 16, 2013>*

(5) Upon receipt of a request to file a complaint made under paragraph (3) or (4), the Chairperson of the Fair Trade Commission shall file a complaint to the Prosecutor General. *<Newly Inserted by Act No. 11936, Jul. 16, 2013>*

(6) The Fair Trade Commission cannot revoke a complaint once a prosecution is instituted. *<Amended by Act No. 11936, Jul. 16, 2013>*

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force on January 1, 2012.

Article 2 (Applicability)

This Act shall apply beginning from the contract concluded between a large franchise and retail business operator and a supplier, etc. for the first time after this Act enters into force.

ADDENDUM *<Act No. 11936, Jul. 16, 2013>*

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

ADDENDA *<Act No. 14136, Mar. 29, 2016>*

Article 1 (Enforcement Date)

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

Article 2 (Transitional Measures concerning Effects of Interrupting Prescription)

Amended Article 25 (4) through (6) shall begin to apply from the first application for mediation filed after this Act enters into force.

Article 3 (Transitional Measures concerning Effects of Mediation Settlement Agreement)

Amended Article 27 shall begin to apply from the first application or request for mediation filed or made after this Act enters into force.

Article 4 (Transitional Measures concerning Effects of Preemptive Notice)

Amended Article 29 (6) shall begin to apply from the violation first reported after this Act enters into force.

ADDENDUM <Act No. 14455, Dec. 20, 2016>

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

