

FAIR TRANSACTIONS IN FRANCHISE BUSINESS ACT

Act No. 6704, May 13, 2002
Amended by Act No. 7109, Jan. 20, 2004
Act No. 7315, Dec. 31, 2004
Act No. 7796, Dec. 29, 2005
Act No. 8630, Aug. 3, 2007
Act No. 10168, Mar. 22, 2010

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to contribute to the promotion of the welfare of consumers and the sound growth of the national economy by establishing a fair trading order for franchise business and by ensuring the mutually complementary and balanced growth of franchisers and franchisees on an equal footing.

Article 2 (Definitions)

For the purposes of this Act: *<Amended by Act No. 8630, Aug. 3, 2007>*

1. The term "franchise business" means a continuous business relationship in which a franchiser allows its franchisees to use its own trade marks, service marks, trade names, signs, or any other business marks (hereinafter referred to as "business marks"; hereinafter the same shall apply) in selling goods (including raw materials and auxiliary materials) or services in conformity with certain quality standards or business methods, and supports, trains, and controls its franchisees in regards to their management, business activities. etc., and in which franchisees pay franchise fees to their franchiser in return for the use of business marks and the support and training provided for their management, business activities, etc.;
2. The term "franchiser" means a business entity that grants franchisees a license to run a franchise store;
3. The term "franchisee" means a business entity that holds a license granted by a franchiser to run a franchise store in relation to a certain franchise business;
4. The term "prospective franchisee" means any person who discusses or negotiates with a franchiser or a master franchisee with intent to sign a franchise agreement;
5. The term "franchise license" means a franchisee's contractual right to run a franchise store in relation to the franchise business of a franchiser;
6. The term "franchise fee" means any of the following consideration, irrespective of the name or means of payment: *Provided*, That such consideration specified by Presidential Decree that is not payable to a franchiser shall be excluded herefrom:
 - (a) Consideration that a franchisee pays to a franchiser in order to obtain a franchise license, including a license for the use of business marks, or to receive support for and training on his/her business activities, such as membership fees, admission fees, franchise fees, training fees, or downpayments;
 - (b) Consideration that a franchisee pays to a franchiser as a security for the payment of obligations or damages incurred in connection with the purchase price for commodities, etc. supplied by the franchiser;
 - (c) Consideration that a franchisee pays to a franchiser as the price for fixture, facilities, or commodities supplied or a rent for real estate provided by the franchiser at the time a franchise license is granted in order to start a franchise business;
 - (d) Consideration that a franchisee pays to a franchiser, on a regular or irregular basis, for

- the use of business marks licensed under an agreement with the franchiser, support for and training on business activities, etc., and that is specified by Presidential Decree;
- (e) Any other consideration that a prospective franchisee or a franchisee pays to a franchiser to acquire or maintain a franchise license;
7. The term "master franchisee" means a business entity that vicariously carries out all or some of the business affairs of a franchiser within a specific area under an agreement with the franchiser, such as the solicitation of franchisees, maintenance of the quality of commodities, and the support for, training on, and control of management and business activities of franchisees;
 8. The term "franchise broker" means a person to whom a franchiser or master franchisee entrusts business affairs relating to the solicitation of franchisees, or the preparation or execution of franchise agreements;
 9. The term "franchise agreement" means a document that describes stipulations (including special terms and conditions or cautions, if any) on the rights and obligations of a franchiser or a franchisee (hereinafter referred to as "party to franchise business") in respect of the specific details and conditions of the franchise business;
 10. The term "information disclosure statement" means a document that contains matters specified by Presidential Decree with regard to the following items:
 - (a) The general status of a franchiser;
 - (b) The current status of the franchise business of a franchiser (including matters concerning sales of its franchisees);
 - (c) The fact that a franchiser or any of its executives (referring to executives defined in subparagraph 5 of [Article 2 of the Monopoly Regulation and Fair Trade Act](#); the same shall apply hereinafter) has ever violated this Act or the [Monopoly Regulation and Fair Trade Act](#), has ever been rendered a final judgment against the franchiser or its executives in a civil lawsuit or a civil compromise in connection with a crime of acquiring or taking another's property by fraud, embezzlement, or misappropriation, or has ever been sentenced to criminal punishment for the commission of a crime of acquiring or taking another's property by fraud, embezzlement, or misappropriation;
 - (d) Charges of franchisees;
 - (e) Conditions of and limitations on business activities;
 - (f) Detailed procedures for the commencement of franchise business and the duration required for the commencement of business;
 - (g) Explanations on education and training (limited to cases where a plan for education or training exists)

Article 3 (Exclusion from Application)

This Act shall not apply to the following cases: *Provided*, That the foregoing shall not apply to cases under [Article 9](#) or [10](#):

1. Where the total franchise fee that a franchisee pays to a franchiser for six months from the date of the initial payment of the franchise fee does not exceed the amount prescribed by Presidential Decree;
2. Where annual sales of a franchiser are less than the amount prescribed by Presidential Decree.

CHAPTER II BASIC PRINCIPLES FOR FRANCHISE BUSINESS TRANSACTIONS

Article 4 (Principle of Good Faith)

Parties to franchise business shall carry out their respective duties in good faith in engaging in franchise business.

Article 5 (Obligations of Franchisers)

Each franchiser shall observe the following obligations:

1. Devising business plans for the success of franchise business;
2. Continuing efforts for the quality management of commodities or services and the

- development of sales techniques;
3. Providing franchisees with facilities for their stores and supplying them with commodities or services at reasonable prices and costs;
 4. Providing franchisees and their employees with education and training;
 5. Rendering constant advice and assistance to franchisees with respect to their management and business activities;
 6. Refraining from establishing any direct retail store within the business territory of a franchisee or establishing a franchise store of any type of business similar to that of a franchisee;
 7. Making efforts to settle any dispute arising in connection with a franchisee through dialog or negotiations.

Article 6 (Obligations of Franchisees)

Each franchisee shall observe the following obligations:

1. Making efforts to maintain the integrity of franchise business and the reputation of the franchiser;
2. Maintaining inventory at a proper level to meet the supply plan of the franchiser and consumer demand, and displaying commodities for that purpose;
3. Meeting appropriate quality standards that the franchiser requires for commodities or services;
4. Using commodities or services provided by the franchiser if it is impossible to purchase commodities or services that meet the quality standards under subparagraph 3;
5. Meeting appropriate standards that the franchiser requires with respect to facilities and the exterior of the place of business or means of transport;
6. Consulting in advance with the franchiser when the franchisee changes commodities, services or business activities that he/she has handled;
7. Maintaining and providing data necessary to establish strategies for the integrated management and sales activities of the franchiser, such as accounting books related to the purchase and sale of commodities or services;
8. Allowing executives, employees, and other agents of the franchiser to enter the franchisee's place of business for inspecting and recording the current status of business of the franchisee or data under subparagraph 7;
9. Refraining from relocating the place of business or transferring the franchise license to any third party without the consent of the franchiser;
10. Refraining from engaging in the same type of business as that of the franchiser during the term of a franchise agreement;
11. Refraining from divulging business knowhow or trade secrets of the franchiser;
12. Notifying the franchiser of any infringement of business marks and providing appropriate cooperation as necessary for preventing infringement where a third party's infringement of business marks is discovered.

CHAPTER III FAIR TRANSACTIONS IN FRANCHISE BUSINESS

Article 6-2 (Registration, etc. of Information Disclosure Statements)

- (1) Each franchiser shall register with the Fair Trade Commission information disclosure statements to be provided to its franchisees. The same shall also apply to any revision to information disclosure statements that have already been registered: *Provided*, That modifications to any minor matter specified by Presidential Decree shall be reported.
- (2) The Fair Trade Commission may disclose any information disclosure statement registered or reported pursuant to paragraph (1).
- (3) The Fair Trade Commission shall, when it discloses an information disclosure statement pursuant to paragraph (2), notify in advance the relevant franchiser of the details to be disclosed and the method of disclosure and shall provide such franchiser with an opportunity to correct factual errors, if any.

- (4) For the purpose of disclosing information disclosure statements pursuant to paragraph (2), the Fair Trade Commission may establish and operate a franchise business information system, within the extents of budget.
- (5) Methods of, and procedures for, and the registration, alteration registration, reporting, and disclosure of information disclosure statements shall be prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 8630, Aug. 3, 2007]

Article 6-3 (Refusal of Registration of Information Disclosure Statements)

- (1) Where an information disclosure statement or any other application document that has been filed for registration pursuant to [Article 6-2](#) contains any false representation or omits any necessary information, the Fair Trade Commission may refuse the registration of the information disclosure statement or request the modification thereof.
- (2) The Fair Trade Commission shall, when it registers an information disclosure statement, issue a registration certificate to the applicant.

[This Article Newly Inserted by Act No. 8630, Aug. 3, 2007]

Article 6-4 (Cancellation of Registration of Information Disclosure Statements)

Where any information disclosure statement falls under subparagraph 1, the Fair Trade Commission shall cancel its registration; and where it falls under subparagraph 2, the Fair Trade Commission may cancel its registration:

1. If an information disclosure statement is registered by fraudulent or other wrongful means;
2. If any material fact specified by Presidential Decree (hereinafter referred to as "material fact") is omitted from matters to be entered under subparagraph 10 of [Article 2](#).

[This Article Newly Inserted by Act No. 8630, Aug. 3, 2007]

Article 6-5 (Deposit, etc. of Franchise Fees)

- (1) Each franchiser shall require its franchisees (including prospective franchisees; the same shall apply hereafter in this Article and [Articles 15-2](#) and [41](#) (3) 1) to deposit franchise fees (limited to consideration specified in subparagraph 6 (a) or (b) of [Article 2](#) and paid in the form of money and including franchise fees paid before entering into an agreement, if any; hereinafter referred to as "franchise deposit") in an institution designated by Presidential Decree (hereinafter referred to as "depository"): *Provided*, That the foregoing shall not apply where a franchiser carries a damage compensation insurance for its franchisees pursuant to [Article 15-2](#).
- (2) When the head of the depository receives a franchise deposit from a franchisee, he/she shall notify the franchiser thereof within seven days from the date of such deposit.
- (3) In any of the following cases, any franchiser may request the head of the depository to pay a franchise deposit, as prescribed by Presidential Decree. In such cases, the head of the depository shall pay the franchise deposit to the franchiser within ten days therefrom:
 1. When a franchisee commences business;
 2. When two months have passed since the execution date of a franchise agreement:
Provided, That the foregoing shall not apply where a franchisee notifies, in writing, to the head of the depository that he/she has taken a measure under any of the provisions of subparagraphs 1 through 3 of paragraph (5) before the expiration of such two months.
- (4) No franchiser shall request the payment of a franchise deposit by fraudulent or other wrongful means.
- (5) In any of the cases under subparagraphs 1 through 3, the head of the depository shall withhold the payment of a franchise deposit until the results of mediation by the Franchise Business Transaction Dispute Mediation Council under [Article 24](#) or the settlement of any other dispute (hereinafter referred to as "results of the mediation or settlement of disputes") or a corrective measure taken by the Fair Trade Commission pursuant to [Article 33](#) becomes final and conclusive (where an appeal is filed with respect to a corrective measure taken by the Fair Trade Commission, referring to the time an adjudication becomes final and conclusive; and where a lawsuit is filed for a corrective measure or adjudication, referring to the time a final judgment is rendered; the same shall

apply hereafter in this Article), and in the case of subparagraph 4, he/she shall reject the draw request for a franchise deposit or request the modification of the draw request:

1. If a franchisee files a lawsuit seeking refund of his/her franchise deposit;
2. If a franchisee files an application for intercession, mediation, or arbitration seeking refund of his/her franchise deposit;
3. If a franchisee reports to the Fair Trade Commission that the franchiser violates [Article 10](#);
4. If a franchiser makes a request for the payment of its franchise deposit by fraudulent or other wrongful means in violation of paragraph (4).
- (6) If a franchiser or franchisee files a request for the payment or return of its franchise deposit by appending results of the mediation or settlement of disputes or results of corrective measures, the head of the depository shall pay the franchise deposit to the franchiser or return it to the franchisee according to the results within 30 days from the date of such request.
- (7) If a franchisee requests the return of his/her franchise deposit with the consent of the franchiser, the head of the depository shall return the franchise deposit to the franchisee within ten days from the date of such request, notwithstanding paragraphs (5) and (6).
- (8) Other necessary matters concerning the deposit of a franchise fee shall be prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 8630, Aug. 3, 2007]

Article 7 (Duty to Provide Information Disclosure Statements)

- (1) Each franchiser (including a master franchisee or a franchise broker who solicits franchisees; the same shall apply hereinafter) shall provide its prospective franchisees with an information disclosure statement registered pursuant to [Article 6-2](#) (1), as prescribed by Presidential Decree. *<Amended by Act No. 8630, Aug. 3, 2007>*
- (2) No franchiser shall engage in any of the following acts, unless it has provided a registered information disclosure statement or unless 14 days (or seven days if a prospective franchisee has consulted an attorney or a franchise trader under [Article 27](#) on an information disclosure statement) have passed since it provided an information disclosure statement: *<Newly Inserted by Act No. 8630, Aug. 3, 2007>*
 1. Receiving franchise fees from a prospective franchisee. In such cases, if a prospective franchisee has deposited his/her franchise deposit in the depository, it is deemed to have received such franchise deposit on the day when the initial deposit is made (or the date agreed by a franchiser and a prospective franchisee to make the first deposit of a franchise fee);
 2. Entering into a franchise agreement with a prospective franchisee.
- (3) The Fair Trade Commission may prepare a standard form of information disclosure statement and recommend franchisers or a business association comprised of franchisers to use such form. *<Amended by Act No. 8630, Aug. 3, 2007>*

Article 8 Deleted. *<by Act No. 8630, Aug. 3, 2007>*

Article 9 (Prohibition on Providing False or Exaggerated Information, etc.)

- (1) When any franchiser provides its prospective franchisees with information, it shall neither provide false or exaggerated information nor omit any material fact. *<Amended by Act No. 8630, Aug. 3, 2007>*
- (2) When any franchiser provides its prospective franchisees or franchisees with any of the following information, it shall be provided in writing: *<Amended by Act No. 8630, Aug. 3, 2007>*
 1. Information about the expected future profits of a prospective franchisee, including estimated sales, profits, gross profit, and net income;
 2. Information about the past profits or expected future profits of a franchisee, including sales, profits, gross profit, and net income.
- (3) Each franchiser shall, whenever it provides information pursuant to paragraph (2), keep evidentiary materials which serve as a basis for the calculation of such information and which is specified by Presidential Decree at its office and shall allow any prospective

franchisee or franchisee to inspect such materials at any time during business hours, upon request by the prospective franchisee or a franchisee. <Amended by Act No. 8630, Aug. 3, 2007>

Article 10 (Return of Franchise Fees)

- (1) Where any franchiser falls under any of the following cases, it shall return the relevant franchise fee to a prospective franchisee or franchisee within one month from the date on which the prospective franchisee or franchisee makes a written request describing matters specified by Presidential Decree: <Amended by Act No. 8630, Aug. 3, 2007>
 1. If a franchiser violates [Article 7](#) (2) and a prospective franchisee or a franchisee requests the return of the franchise fee before the execution date of the franchise agreement or within two months after the execution date of the franchise agreement;
 2. If a franchiser violates [Article 9](#) (1) and a prospective franchisee requests the return of the franchise fee before the franchise agreement is entered into;
 3. If a franchiser violates [Article 9](#) (1) and a franchisee requests the return of the franchise fee within two months from the execution date of the franchise agreement as it is found that the statement of false or exaggerated information or the omission of a material fact had material effect on the execution of the agreement;
 4. If a franchiser unilaterally suspends the franchise business without justifiable reasons and a franchisee requests the return of the franchise fee within two months from the date of suspension of the franchise business specified by Presidential Decree.
- (2) In determining the amount of the franchise fee that shall be returned pursuant to paragraph (1), circumstances leading to the execution of the relevant franchise agreement, nature of the consideration paid whether in the form of money or otherwise, term of the franchise agreement, performance period of the franchise agreement, and the level of attributability of each party to the franchise business shall be taken into account. <Amended by Act No. 8630, Aug. 3, 2007>

Article 11 (Matters to be Entered, etc. in Franchise Agreement)

- (1) Each franchiser shall provide its prospective franchisees with a document describing matters under the subparagraphs of paragraph (2) before any of the following dates, whichever comes earlier, so that the prospective franchisees can understand in advance details of the franchise agreement: <Amended by Act No. 8630, Aug. 3, 2007>
 1. The execution date of the franchise agreement;
 2. The date of the initial receipt of a franchise fee (or the date on which the initial deposit is made, in cases where a prospective franchisee deposits a franchise deposit in the depository: *Provided*, That it shall be the date on which a prospective franchisee agrees with the franchiser to make the first deposit of a franchise fee, if an agreement on such date exists).
- (2) Each franchise agreement shall include the following: <Amended by Act No. 8630, Aug. 3, 2007>
 1. Matters concerning the grant of a license for business marks;
 2. Matters concerning the terms and conditions of business activities of the franchisee;
 3. Matters concerning the education, training, and business guidance for the franchisee;
 4. Matters concerning the payment of franchise fees and others;
 5. Matters concerning the demarcation of business territory;
 6. Matters concerning the term of the agreement;
 7. Matters concerning the transfer of business;
 8. Matters concerning the grounds for termination of the agreement;
 9. The fact that a franchise deposit shall be deposited in the depository for two months from the date on which the prospective franchisee or franchisee enters into the franchise agreement (or until the date of commencement of the franchise business, in cases where the franchisee commences the franchise business before the expiration of such two months): *Provided*, That if a franchiser carries a damage compensation insurance for its franchisees pursuant to [Article 15-2](#), matters concerning the insurance policy shall be included therein;

10. The fact that the prospective franchisee has consulted an attorney or a franchise trader under [Article 27](#), if it is the case;
 11. Other matters specified by Presidential Decree concerning the rights and obligations of parties to franchise business.
- (3) Each franchiser shall keep each franchise agreement for three years from the date on which the relevant franchise business transaction terminates.
 - (4) The Fair Trade Commission may recommend each franchiser to prepare and use a standard franchise agreement form for specific franchise business transactions in order to establish the sound order in franchise business transactions and prevent unfair franchise agreements from being widely used.

Article 12 (Prohibition on Unfair Transactions)

- (1) No franchiser shall engage in, or cause any other business entity to engage in, any of the following acts that are likely to hamper fair franchise business transactions: *<Amended by Act No. 8630, Aug. 3, 2007>*
 1. Suspending or refusing the supply of commodities or services or business assistance to a franchisee or placing significant limitations thereon;
 2. Imposing unfair restraints or limitations on the prices of commodities or services that a franchisee handles, or on customers, business territory, or business activities of a franchisee;
 3. Putting a franchisee at an unfair disadvantage by abusing its position in transactions;
 4. Establishing a direct retail store or a franchise store of its own or its affiliated company (referring to an affiliated company under subparagraph 3 of [Article 2 of the Monopoly Regulation and Fair Trade Act](#)) for the same type of business as that of a franchisee within the business territory of the franchisee during the term of the franchise agreement in breach of the franchise agreement;
 5. Any conduct that does not fall under subparagraphs 1 through 4 but is likely to hamper fair franchise business transactions, such as inducing franchisees of a competing franchiser to trade with itself.
- (2) The types of and criteria for the conducts under each of the subparagraphs of paragraph (1) shall be prescribed by Presidential Decree.

Article 13 (Renewal, etc. of Franchise Agreement)

- (1) Upon request by a franchisee to renew the franchise agreement during the period between 180 days and 90 days prior to the expiration date of the franchise agreement, no franchiser shall reject such request without justifiable reasons: *Provided*, That the foregoing shall not apply to any of the following cases:
 1. If a franchisee fails to perform his/her obligation to pay franchise fees or other payment under the franchise agreement;
 2. If a franchisee fails to accept any term or condition of the agreement or business policy that generally applies to other franchisees;
 3. If a franchisee fails to observe the franchiser's important business policy that is considered necessary for maintaining the franchise business and that falls under any of the following items:
 - (a) Matters concerning the securing of business premises and facilities necessary for the operation of a franchise store or the acquisition of necessary qualifications, licenses, or permits under relevant Acts and subordinate statutes;
 - (b) Matters concerning compliance with the manufacturing process or service technique necessary for maintaining the quality of commodities or services on sale;
 - (c) Other matters considered necessary for franchisees to maintain their franchise business in a normal condition and specified by Presidential Decree.
- (2) A franchisee's right to request the renewal of the agreement may be exercised only when the total period of the franchise agreement, including its initial period, does not exceed ten years.
- (3) Any franchiser that intends to refuse the request for renewal under paragraph (1) shall notify the relevant franchisee of the grounds for refusal within 15 days from the date on

which it receives such request.

- (4) If a franchiser fails to give notice of refusal under paragraph (3) or fails to give written notice of change in terms and conditions or written notice that it is not willing to renew the franchise agreement to a franchisee during the period between 180 days and 90 days prior to the expiration date of the agreement, the franchise agreement is deemed to be renewed under the same terms and conditions as those of the franchise agreement effective before the expiration of the agreement: *Provided*, That the foregoing shall not apply where a franchisee raises an objection not later than 60 days before the expiration of the agreement or where a natural disaster or other *force majeure* specified by Presidential Decree occurs to a franchiser or franchisee.

[*This Article Wholly Amended by Act No. 8630, Aug. 3, 2007*]

Article 14 (Limitations on Termination of Franchise Agreement)

- (1) Any franchiser that intends to terminate a franchise agreement shall clearly state the franchisee's breach of the agreement during the grace period of not less than two months and shall give written notice at least twice that it will terminate the agreement unless such breach is corrected during the given period: *Provided*, That the foregoing shall not apply to cases specified by Presidential Decree as it is difficult to continue franchise business transactions. <*Amended by Act No. 8630, Aug. 3, 2007*>
- (2) The termination of a franchise agreement without complying with the procedure under paragraph (1) shall not have the effect.

Article 15 (Voluntary Regulations)

- (1) In order to maintain a fair trading order for franchise business, any franchiser or business association comprised of franchisers may introduce regulations on a voluntary basis.
- (2) Any franchiser or business association comprised of franchisers that intends to introduce voluntary regulations pursuant to paragraph (1) may request the Fair Trade Commission to examine whether such regulations violate [Article 12](#) (1).
- (3) The Fair Trade Commission in receipt of a request for the examination on voluntary regulations pursuant to paragraph (2) shall notify the applicant of the results of the examination within 60 days from the date of such request.

Article 15-2 (Damage Compensation Insurance for Franchisees)

- (1) In order to compensate for damages suffered by franchisees, any franchiser may enter into any of the following contracts (hereinafter referred to as "damage compensation insurance for franchisees, etc."):
 1. An insurance contract under the [Insurance Business Act](#);
 2. A debt guarantee contract with an institution under [Article 38 of the Act on the Establishment, etc. of Financial Supervisory Organizations](#) for securing the payment of damage compensations for franchisees;
 3. A mutual aid contract with a mutual aid association established pursuant to [Article 15-3](#).
- (2) Any person who owes an obligation to pay damage compensations to a franchisee under a damage compensation insurance for franchisees, etc. shall pay them without delay when a cause for the payment occurs. If the person delays the payment of such compensations, he/she shall pay default interest thereon.
- (3) Any franchiser that intends to carry a damage compensation insurance for franchisees, etc. shall not submit false data on sales and other relevant facts in order to carry a damage compensation insurance for franchisees, etc.
- (4) Each franchiser shall ensure that a damage compensation insurance for franchisees, etc. that it intends to carry shall be at an appropriate level to cover damages suffered by franchisees.
- (5) Any franchiser that has purchased a damage compensation insurance for franchisees, etc. may use a mark indicating such fact.
- (6) Any franchiser that has not purchased a damage compensation insurance for franchisees, etc. shall neither use the mark under paragraph (5) nor produce or use any similar mark.
- (7) Other necessary matters concerning a damage compensation insurance for franchisees,

etc. shall be prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 8630, Aug. 3, 2007]

Article 15-3 (Establishment of Mutual Aid Association)

- (1) In order to engage in mutual aid services under [Article 15-2](#) (1) 3, franchisers may establish a mutual aid association (hereinafter referred to as "mutual aid association"), subject to authorization from the Fair Trade Commission.
- (2) A mutual aid association shall be a corporation, which shall be duly formed by making registration of incorporation at the seat of its principal office.
- (3) Each franchiser that has become a member of a mutual aid association shall pay contributions, etc. required for carrying out mutual aid services to the association.
- (4) Legal capital of a mutual aid association shall be constituted of contributions, etc. paid by its members.
- (5) Qualifications for members of a mutual aid association, matters concerning its executives and the guidelines for the allotment of contributions shall be stipulated by its articles of incorporation.
- (6) Necessary matters concerning the standards and procedure for the authorization of incorporation of a mutual aid association, matters to be entered in its articles of incorporation, and its operation and supervision, etc. shall be prescribed by Presidential Decree.
- (7) Any mutual aid association that intends to engage in mutual aid services under paragraph (1) shall establish mutual aid regulations and obtain authorization from the Fair Trade Commission therefor. The same shall also apply to any amendment to mutual aid regulations .
- (8) The mutual aid regulations under paragraph (7) shall include matters necessary for operating mutual aid services, such as the scope of mutual aid services, mutual aid fees, and policy reserve to be appropriated for mutual aid services.
- (9) Except otherwise provided by this Act, provisions applicable to incorporated associations of the [Civil Act](#) shall apply *mutatis mutandis* to mutual aid associations.
- (10) The [Insurance Business Act](#) shall not apply to business of mutual aid associations under this Act.

[This Article Newly Inserted by Act No. 8630, Aug. 3, 2007]

CHAPTER IV MEDIATION OF DISPUTES, ETC.

Article 16 (Establishment of Franchise Business Transaction Dispute Mediation Council)

There is established in the Korea Fair Trade Mediation Agency under [Article 48-2 \(1\) of the Monopoly Regulation and Fair Trade Act](#) (hereinafter referred to as "KOFAIR") a Franchise Business Transaction Dispute Mediation Council (hereinafter referred to as the "Council") in order to mediate disputes on franchise business.

[This Article Wholly Amended by Act No. 8630, Aug. 3, 2007]

Article 17 (Composition of Council)

- (1) The Council shall be comprised of nine members, including one Chairperson.
- (2) The Council shall be composed of the same number of seats each for members representing public interest, members representing franchisers' interest, and members representing franchisees' interest.
- (3) Members shall be appointed or commissioned by the Chairperson from among persons recommended by the head of KOFAIR and persons falling under any of the following subparagraphs: <Amended by Act No. 8630, Aug. 3, 2007>
 1. Persons who major in law, economics, or business administration and who have served or who currently serve in a school under subparagraph 1, 2, or 5 of [Article 2 of the Higher Education Act](#) or an officially recognized research institute as an adjunct professor or in an equivalent or higher position;
 2. Persons who have served or who currently serve as a judge or a public prosecutor or

- who were admitted to the bar;
3. Persons who have served or who currently serve as a Grade-IV or higher-ranking public official (including public officials in general service who are members of the Senior Executive Service) with experience in affairs relating to antitrust or fair trade.
 - (4) The Chairperson shall be commissioned by the Chairman of the Fair Trade Commission from among members representing public interest. *<Amended by Act No. 7796, Dec. 29, 2005. Act No. 8630, Aug. 3, 2007>*
 - (5) The term of office for each member shall be three years, which may be renewed consecutively.
 - (6) If a vacancy occurs on the Council among its members, such vacancy shall be filled in accordance with paragraph (3), and the term of office for a member commissioned to fill a vacancy shall be the remaining term of office for his/her predecessor.

Article 18 (Restriction on Commissioning Members Representing Public Interest)

- (1) No members representing public interest shall be commissioned from among persons who serve as an executive or employee of a franchiser or franchisee as at the date of the commissioning.
- (2) The Chairman of the Fair Trade Commission shall immediately decommission any person commissioned as a member representing public interest if the person becomes an executive or employee of a franchiser or franchisee. *<Amended by Act No. 8630, Aug. 3, 2007>*

Article 19 (Meetings of Council)

- (1) Meetings of the Council shall be divided into meetings comprised of all members (hereinafter referred to as "plenary meetings") and meetings comprised of each one member from those representing public interest, those representing franchisers' interest, and those representing franchisees' interest (hereinafter referred to as "sub-meetings"). *<Amended by Act No. 8630, Aug. 3, 2007>*
- (2) Sub-meetings of the Council shall deliberate, and adopt resolutions, on matters submitted by a plenary meeting. *<Newly Inserted by Act No. 8630, Aug. 3, 2007>*
- (3) Plenary meetings of the Council shall be presided over by the Chairperson, which shall open with the attendance of the majority of the incumbent members, and adopt resolutions by an affirmative vote of the majority of the members present. *<Amended by Act No. 8630, Aug. 3, 2007>*
- (4) Sub-meetings of the Council shall be presided over by a member representing public interest and shall adopt resolutions with the attendance of the all constituent members and by an affirmative vote of the all members present. In such cases, resolutions adopted by a sub-meeting shall be deemed resolutions adopted by the Council, the results of which shall be reported to a plenary meeting. *<Newly Inserted by Act No. 8630, Aug. 3, 2007>*
- (5) In case of the absence from duty of the Chairperson from whatever cause arising, any member designated by the Chairman of the Fair Trade Commission from among members representing public interest shall exercise and perform all the duties of the Chairperson. *<Amended by Act No. 8630, Aug. 3, 2007>*
- (6) Any party to franchise business who is involved in a dispute brought before the Council for mediation (hereinafter referred to as "disputing party") may attend a meeting of the Council to state his/her opinion or submit relevant documents.

Article 20 (Exclusion, Challenge, or Avoidance of Members)

- (1) Any member who falls under any of the following subparagraphs shall be excluded from mediation of a case at issue:
 1. If the member or his/her spouse or ex-spouse is a disputing party to the case brought for mediation or is in a relationship of a joint right-holder or obligor with the disputing party;
 2. If the member is or was a relative of a disputing party to the case brought for mediation;
 3. If the member or a corporation to which the member belongs serves as a consultant or advisor for legal affairs or business management of a disputing party;
 4. If the member or a corporation to which the member belongs is or was involved in the

- dispute brought for mediation as an agent of a disputing party or has ever testified as a witness or an expert witness in regard to the dispute.
- (2) If any member is not in a position to make fair judgment in mediation by the Council, a disputing party may file for an application for challenge against such member with the Council.
 - (3) Any member who has an excuse under paragraph (1) or (2) may voluntarily avoid participating in mediation of a dispute at issue.

Article 21 (Matters Subject to Mediation of Council)

The Council shall mediate disputes arising from franchise business transactions at the request of the Fair Trade Commission or a disputing party.

Article 22 (Application for Mediation, etc.)

- (1) Any disputing party may file an application in writing for mediation of matters specified by Presidential Decree with the Council pursuant to [Article 21](#).
- (2) The Fair Trade Commission may request the Council to mediate disputes arising from franchise business transactions.
- (3) The Council shall, upon receiving an application for mediation of a dispute pursuant to paragraph (1), immediately notify the disputing parties of the matters brought for mediation. *<Amended by Act No. 8630, Aug. 3, 2007>*

Article 23 (Mediation, etc.)

- (1) The Council may recommend disputing parties to reconcile with one another with respect to matters brought for mediation or prepare and present mediatory suggestions.
- (2) The Council may refuse or discontinue mediation if any of the following events occurs: *<Amended by Act No. 8630, Aug. 3, 2007>*
 1. If either disputing party refuses mediation;
 2. If a lawsuit has already been filed with a court; if a lawsuit is filed with a court after filing an application for mediation; or if disputing parties reach an agreement to arbitrate under the [Arbitration Act](#) after filing an application for mediation;
 3. If mediation is of no practical benefit because allegations in an application are obviously inadmissible under relevant Acts and subordinate statutes or objective data, or any event specified by Presidential Decree occurs.
- (3) The Council shall close mediation proceedings in any of the following cases: *<Amended by Act No. 8630, Aug. 3, 2007>*
 1. If disputing parties accept the Council's recommendation or mediatory suggestion or reconcile with one another, or if mediation is successfully concluded otherwise;
 2. If mediation is still unsuccessful even 60 days (90 days if both disputing parties agree to extend the period) after the date on which an application or request for mediation is filed;
 3. If mediation is discontinued pursuant to paragraph (2) and it is of no practical benefit to continue mediation proceedings further.
- (4) The Council shall, when it refuses or discontinues mediation pursuant to paragraph (2) or when it closes mediation proceedings pursuant to paragraph (3), report in writing to the Fair Trade Commission, without delay, on the course of mediation, the grounds on which it refuses or discontinues mediation or closes mediation proceedings, and other relevant facts, along with relevant documents, and notify the relevant disputing parties of its decision.
- (5) The Council may, if necessary to verify facts relating to a case brought for mediation, conduct an investigation or summon disputing parties to submit relevant documents or make appearances.
- (6) The Fair Trade Commission shall not make any recommendation or issue any order to disputing parties with regard to the dispute brought for mediation until mediation proceedings are closed: *Provided*, That the foregoing shall not apply to cases under investigation by the Fair Trade Commission pursuant to [Article 32](#).

Article 24 (Preparation and Effects of Mediation Protocols)

- (1) When mediation is successfully concluded for a case brought for mediation, the Council shall prepare a mediation protocol signed and sealed by the Council members who have

participated in mediation and disputing parties. In such cases, it shall be deemed that an agreement with the same terms and conditions as those on the mediation protocol is duly reached between the disputing parties.

- (2) Where disputing parties reconcile with one another and request the preparation of a mediation protocol before the commencement of mediation proceedings, the Council may prepare the mediation protocol.

Article 25 (Provisions Governing Organization of Council, etc.)

Necessary matters concerning the organization and operation of the Council and mediation procedures shall be prescribed by Presidential Decree in addition to the provisions of [Articles 16 through 24](#).

Article 26 Deleted. <by Act No. 8630, Aug. 3, 2007>

Article 27 (Franchise Traders)

- (1) Any person who successfully passes the franchise trader qualifying examination conducted by the Fair Trade Commission and who completes on-the-job training, as prescribed by Presidential Decree, shall be qualified for a franchise trader. <Amended by Act No. 7109, Jan. 20, 2004; Act No. 8630, Aug. 3, 2007>
- (2) No person who falls under any of the following subparagraphs shall be qualified for a franchise trader: <Amended by Act No. 8630, Aug. 3, 2007>
 1. A minor, incompetent, or quasi-incompetent;
 2. A person declared bankrupt but not reinstated yet;
 3. A person in whose case two years have not passed since his/her imprisonment without prison labor or any heavier punishment as sentenced by a court was completely executed (or is deemed to be completely executed) or exempted;
 4. A person who is under the suspension of the execution of his/her imprisonment without prison labor or any heavier punishment as sentenced by a court;
 5. A person in whose case two years have not passed since his/her registration as a franchise trader was cancelled.
- (3) Necessary matters concerning the qualifying examination and on-the-job training for franchise traders, such as the subjects and the method of testing for the examination and the period of on-the-job training shall be prescribed by Presidential Decree. <Newly Inserted by Act No. 7109, Jan. 20, 2004; Act No. 8630, Aug. 3, 2007>

Article 28 (Business of Franchise Traders)

Each franchise trader shall undertake the following duties:

1. Counselling or examination on the feasibility of a franchise business;
2. Counselling or consulting on the preparation and modification of information disclosure statements and franchise agreements;
3. Counselling or consulting on charges of franchisers and terms and conditions of the business activities of a franchise business;
4. Counselling or consulting on education and training of franchisees;
5. Acting as an agent for filing an application for mediation of disputes arising from franchise business transactions;
6. Acting as an agent for filing an application for the registration of an information disclosure statement.

[This Article Newly Inserted by Act No. 8630, Aug. 3, 2007]

Article 29 (Registration of Franchise Traders)

- (1) Any person who is qualified as a franchise trader and intends to commence business as a franchise trader under [Article 28](#) shall be registered with the Fair Trade Commission, as prescribed by Presidential Decree. <Amended by Act No. 7109, Jan. 20, 2004; Act No. 8630, Aug. 3, 2007>
- (2) Each franchise trader who is registered pursuant to paragraph (1) shall renew his/her registration every five years, as prescribed by the Fair Trade Commission. <Amended by Act No. 8630, Aug. 3, 2007>
- (3) Any person who is not a franchise trader registered pursuant to paragraph (1) shall

neither represent him/her as a franchise trader under [Article 27](#) nor use any similar title.
<Amended by Act No. 8630, Aug. 3, 2007>

Article 30 (Responsibilities of Franchise Traders)

- (1) Each franchise trader shall perform his/her duties in good faith and maintain decency.
<Amended by Act No. 8630, Aug. 3, 2007>
- (2) No franchise trader shall intentionally conceal the truth or make a false report in performing his/her duties. <Amended by Act No. 8630, Aug. 3, 2007>

Article 31 (Cancellation of Registration of Franchise Traders and Suspension of Qualification)

- (1) The Fair Trade Commission may, if a franchise trader registered pursuant to [Article 29](#) falls under any of the following subparagraphs, cancel the registration: *Provided*, That the registration must be cancelled in the case of subparagraph 1 or 2: <Amended by Act No. 8630, Aug. 3, 2007>
 1. If the franchise trader is registered or renews registration by fraudulent or other wrongful means;
 2. If the franchise trader falls under disqualification stipulated in [Article 27](#) (2);
 3. If the franchise trader divulges confidential information known to him/her in the course of performing his/her duties to any third party;
 4. If the franchise trader lends his/her registration certificate to any third party;
 5. If the franchise trader inflicts serious damage upon any third party by intention or gross negligence.
- (2) Any franchise trader who fails to renew his/her registration under [Article 29](#) (2) shall lose his/her qualification. In such cases, his/her qualification shall be reinstated when the franchise trader receives in-service training and completes renewal of registration, as prescribed by Public Notification of the Fair Trade Commission. <Amended by Act No. 8630, Aug. 3, 2007>

Article 31-2 (Education, etc. on Franchise Business Transactions)

- (1) In order to establish a fair trading order for franchise business, the Fair Trade Commission may carry out the following activities:
 1. Education and training of franchisers;
 2. Education and training of prospective franchisees and franchisees;
 3. Education and training of franchise traders (including on-the-job training under [Article 27](#) (1));
 4. Distribution and diffusion of voluntary compliance programs to induce franchisers to voluntarily observe this Act;
 5. Other activities considered necessary for establishing a fair trading order for franchise business.
- (2) The Fair Trade Commission may entrust business under paragraph (1) to institutions or organizations designated by the Fair Trade Commission (hereinafter referred to as "education institutes, etc."), which are corporations meeting the standards for facilities, human resources, and provision of education prescribed by Presidential Decree.
- (3) In order to raise financial resources required for carrying out business under paragraph (1), education institutes, etc. may engage in any business for profit.
- (4) If any education institute, etc. fails to carry out business referred to in paragraph (1) in good faith or fails to meet the standards prescribed by Presidential Decree, the Fair Trade Commission may cancel the designation or suspend the efficacy of such designation for a prescribed period of not more than three months.
- (5) Necessary matters concerning the procedure for, and the method of, designating education institutes, etc. and business for profit under paragraph (3) shall be prescribed and publicly notified by the Fair Trade Commission.

[This Article Newly Inserted by Act No. 8630, Aug. 3, 2007]

CHAPTER V PROCEDURE FOR HANDLING CASES BY

FAIR TRADE COMMISSION

Article 32 (Restriction on Activities subject to Investigation)

Franchise business transactions subject to investigation by the Fair Trade Commission pursuant to this Act shall be limited to those for which three years have not passed since such transactions were closed: *Provided*, That the foregoing shall not apply to franchise business transactions reported within three years after the transactions were closed.

Article 33 (Corrective Measures)

- (1) The Fair Trade Commission may order a franchiser that violates [Article 6-5](#) (1) or (4), [7](#) (2), [9](#) (1), [10](#) (1), [11](#) (1) or (2), [12](#) (1), or [15-2](#) (3) or (6) to deposit franchisee fees, provide information disclosure statements, return franchise fees, discontinue violations, report plans or actions necessary for correcting violations, or take other measures necessary for correcting violations. *<Amended by Act No. 8630, Aug. 3, 2007>*
- (2) The Fair Trade Commission shall not take any corrective measure under paragraph (1) nor make a recommendation for correction under [Article 34](#) (1) if mediation by the Council is successfully achieved pursuant to [Article 24](#), in the absence of extenuating circumstances. *<Amended by Act No. 8630, Aug. 3, 2007>*
- (3) When the Fair Trade Commission issues an order for correction pursuant to paragraph (1), it may order the relevant franchiser to make a public announcement that it receives such an order for correction or to give notice thereof to the trading partners. *<Amended by Act No. 8630, Aug. 3, 2007>*

Article 34 (Recommendation for Correction)

- (1) If the Fair Trade Commission has no time to order a franchiser that violates this Act to take corrective measures under [Article 33](#), it may prepare a correction scheme and recommend the franchiser to comply with such scheme, as prescribed by Presidential Decree. In such cases, the Fair Trade Commission shall also notify that the franchiser will be deemed to have taken corrective measures upon accepting the recommendation.
- (2) A franchiser that receives a recommendation under paragraph (1) shall notify the Fair Trade Commission as to whether it accepts the recommendation within ten days from the date of the receipt of notice of such recommendation.
- (3) When a franchiser in receipt of a recommendation pursuant to paragraph (1) accepts the recommendation, it shall be deemed that corrective measures under [Article 33](#) have been taken.

Article 35 (Penalty Surcharge)

The Fair Trade Commission may impose a penalty surcharge on a franchiser that violates [Article 6-5](#) (1) or (4), [7](#) (2), [9](#) (1), [10](#) (1), [11](#) (1) or (2), [12](#) (1), or [15-2](#) (3) or (6) to the extent that does not exceed an amount calculated by multiplying the sales defined by Presidential Decree by 2/100. *<Amended by Act No. 8630, Aug. 3, 2007>*

Article 36 (Cooperation of Heads of Relevant Administrative Agencies)

If the Fair Trade Commission deems it necessary to enforce this Act, it may seek opinions from the heads of relevant administrative agencies or request them to assign their employees to conduct investigations or provide other necessary cooperation.

Article 37 (Application Mutatis Mutandis of the [Monopoly Regulation and Fair Trade Act](#))

- (1) [Articles 42, 43, 43-2, 44, 45, 49](#) (1) through (3), [50](#) (1) through (4), [52, 52-2, 53, 53-2](#), and [55-2 of the Monopoly Regulation and Fair Trade Act](#) shall apply *mutatis mutandis* to any investigation, deliberation, resolution, and recommendation for correction under this Act. *<Amended by Act No. 8630, Aug. 3, 2007>*
- (2) [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 under this Act. *<Amended by Act No. 7315, Dec. 31, 2004; Act No. 8630, Aug. 3, 2007>*
- (3) [Articles 53, 53-2, 54, 55, 56, 56-2](#), and [57 of the Monopoly Regulation and Fair Trade Act](#) shall apply *mutatis mutandis* to any appeal, institution of lawsuits, exclusive jurisdiction over lawsuits for appeal, and liability for damages under this Act: *Provided*, That [Articles](#)

[56, 56-2, and 57 of the Monopoly Regulation and Fair Trade Act](#) shall not apply *mutatis mutandis* to cases where the gravity of violation of the said Act committed by a business entity is weak or where a corrective measure is of no practical benefit because the business entity has already corrected such violation or any other case specified by Presidential Decree. <Amended by Act No. 8630, Aug. 3, 2007>

- (4) [Article 62 of the Monopoly Regulation and Fair Trade Act](#) shall apply *mutatis mutandis* to Commissioners of the Fair Trade Commission or public officials who were engaged in, or are currently engaged in, duties under this Act, or persons who were or are currently in charge of mediation of disputes arising from franchise business transactions in the Council.
- (5) Deleted. <by Act No. 8630, Aug. 3, 2007>

Article 38 (Relationship to the [Monopoly Regulation and Fair Trade Act](#))

[Article 23](#) (1) 1 (limited to unfair refusal to make transactions), 3 (limited to the unfair induction of customers of competitors to trade with oneself), 4, and 5 (limited to making of transactions on condition of placing unfair restraints on business activities of a certain transacting partner) and [Article 29 \(1\) of the Monopoly Regulation and Fair Trade Act](#) shall not apply to matters governed by this Act in relation to franchise business transactions. <Amended by Act No. 8630, Aug. 3, 2007>

Article 39 (Delegation and Entrustment of Authority)

- (1) Part of the authority granted to the Fair Trade Commission pursuant to this Act may be delegated to the heads of its affiliate agencies or the Special Metropolitan City Mayor, any Metropolitan City Mayor, Do Governor, or the Governor of a Special Self-Governing Province, or may be entrusted to the heads of other administrative agencies, as prescribed by Presidential Decree. <Amended by Act No. 8630, Aug. 3, 2007>
- (2) The Fair Trade Commission may entrust a relevant corporation or organization with any of the following business affairs, as prescribed by Presidential Decree. In such cases, it may fully or partially subsidize expenses incurred in entrusted management under subparagraph 1: <Amended by Act No. 8630, Aug. 3, 2007>
1. Establishment and operation of the franchise business information system under [Article 6-2](#) (4);
 2. Implementation and management of the franchise trader qualifying examination under [Article 27](#) (1).

Article 40 (Reporting)

The Fair Trade Commission may require a person delegated or entrusted with administrative affairs pursuant to [Article 39](#) to make reports as necessary.

CHAPTER VI PENAL PROVISIONS

Article 41 (Penal Provisions)

- (1) Any person who provides false or exaggerated information or omits a material fact in violation of [Article 9](#) (1) shall be punished by imprisonment with prison labor for not more than five years or by a fine not exceeding 150 million won. <Amended by Act No. 8630, Aug. 3, 2007>
- (2) Any person falling under any of the following subparagraphs shall be punished by imprisonment with prison labor for not more than three years or by a fine not exceeding 100 million won: <Amended by Act No. 8630, Aug. 3, 2007>
1. A person who fails to comply with an order to take corrective measures under [Article 33](#) (1);
 2. A person who violates [Article 62 of the Monopoly Regulation and Fair Trade Act](#), which is applicable *mutatis mutandis* pursuant to [Article 37](#) (4).
- (3) Any person falling under any of the following subparagraphs shall be punished by imprisonment with prison labor for not more than two years or by a fine not exceeding fifty million won: <Amended by Act No. 8630, Aug. 3, 2007>

1. A person who receives a franchise deposit directly from a franchisee in violation of [Article 6-5](#) (1);
2. A person who receives a franchise fee or executes a franchise agreement in violation of [Article 7](#) (2);
3. A person who produces or uses a mark representing that it has purchased a damage compensation insurance for franchisees, etc. or any similar mark in violation of [Article 15-2](#) (6).
- (4) Any person who requests the payment of a franchise deposit by fraudulent or other wrongful means in violation of [Article 6-5](#) (4) shall be punished by a fine not exceeding an amount equivalent to double the franchise deposit. <Newly Inserted by Act No. 8630, Aug. 3, 2007>

Article 42 (Joint Penal Provisions)

When a representative of a corporation, or an agent, employee or other worker of a corporation or private individual commits the offensive acts in [Article 41](#) in connection with a business of the corporation or private individual, not only shall the offender be punished, but also the corporation or private individual shall be punished by a fine as prescribed in the relevant Article: *Provided*, That the same shall not apply to cases where the corporation or private individual paid considerable attention or diligently supervised the concerned business to prevent such offensive acts.

[This Article Wholly Amended by Act No. 10168, Mar. 22, 2010]

Article 43 (Fines for Negligence)

- (1) A franchiser falling under subparagraph 2 or 3 shall be punished by a fine for negligence not exceeding 100 million won, and a franchiser falling under subparagraph 1 shall be punished by a fine for negligence not exceeding 50 million won: <Amended by Act No. 8630, Aug. 3, 2007>
 1. A person who fails to make an appearance twice or more without any justifiable reason in violation of [Article 50 \(1\) 1 of the Monopoly Regulation and Fair Trade Act](#), which is applicable *mutatis mutandis* pursuant to [Article 37](#) (1);
 2. A person who fails to submit a report or necessary data or goods in accordance with [Article 50 \(1\) 3 or \(3\) of the Monopoly Regulation and Fair Trade Act](#), which is applicable *mutatis mutandis* pursuant to [Article 37](#) (1) without a justifiable ground, or who submits a false report, data or goods;
 3. A person who refuses, interferes with, or evades an investigation conducted pursuant to [Article 50 \(2\) of the Monopoly Regulation and Fair Trade Act](#) without a justifiable ground, which is applicable *mutatis mutandis* pursuant to [Article 37](#) (1).
- (2) A franchisee falling under paragraph (1) 2 or 3 shall be punished by a fine for negligence not exceeding 100 million won, and a franchisee falling under subparagraph 1 of the aforesaid paragraph shall be punished by a fine for negligence not exceeding 10 million won.
- (3) An executive of a franchiser or franchisee shall be punished by a fine for negligence not exceeding 50 million won, if he/she falls under paragraph (1) 3, or by a fine for negligence not exceeding 10 million won, if he/she falls under subparagraph 1 or 2 of the aforesaid paragraph.
- (4) An employee of a franchiser or franchisee or a person who has any similar legal interest shall be punished by a fine for negligence not exceeding 50 million won, if he/she falls under paragraph (1) 3, or by a fine for negligence not exceeding 10 million won, if he/she falls under subparagraph 2 of the aforesaid paragraph, or by a fine for negligence not exceeding five million won, if he/she falls under subparagraph 1 of the aforesaid paragraph.
- (5) A person who fails to comply with an order issued pursuant to [Article 43 of the Monopoly Regulation and Fair Trade Act](#) to maintain the order, which is applicable *mutatis mutandis* pursuant to [Article 37](#) (1), shall be punished by a fine for negligence not exceeding one million won. <Amended by Act No. 8630, Aug. 3, 2007>
- (6) A person falling under any of the following subparagraphs shall be punished by a fine for

negligence not exceeding 10 million won: <Amended by Act No. 8630, Aug. 3, 2007>

1. A person who fails to provide information under any subparagraph of [Article 9](#) (2) in writing, in violation of the aforesaid paragraph;
 2. A person who fails to keep evidentiary materials or fails to comply with a request for materials, in violation of [Article 9](#) (3);
 3. A person who fails to keep a franchise agreement, in violation of [Article 11](#) (3).
- (7) A person falling under any of the following subparagraphs shall be punished by a fine for negligence not exceeding three million won: <Amended by Act No. 8630, Aug. 3, 2007>
1. A person who fails to make a report or makes a false report, in violation of [Article 6-2](#) (1);
 2. A person who uses a mark representing a franchise trader or any similar title, in violation of [Article 29](#) (3).
- (8) Fines for negligence under paragraphs (1) through (7) shall be imposed and collected by the Fair Trade Commission, as prescribed by Presidential Decree. <Newly Inserted by Act No. 8630, Aug. 3, 2007>
- (9) Deleted. <by Act No. 10168, Mar. 22, 2010>
- (10) Deleted. <by Act No. 10168, Mar. 22, 2010>
- (11) Deleted. <by Act No. 10168, Mar. 22, 2010>

Article 44 (Criminal Charge)

- (1) Public prosecution for an offense under [Article 41](#) (1) 1, (2) 1, or (3) may be initiated only when the Fair Trade Commission files a criminal charge.
- (2) If the gravity of an offense under [Article 41](#) (1), (2) 1, or (3) is objectively deemed obvious and serious, the Fair Trade Commission shall file a criminal charge in relation thereto with the Prosecutor General.
- (3) The Prosecutor General may notify the Fair Trade Commission that he/she has discovered facts constituting a criminal charge under paragraph (2) and request it to file a criminal charge in relation thereto. Upon request by the Prosecutor General to file a criminal charge, the Fair Trade Commission shall comply with such request.
- (4) The Fair Trade Commission shall not cancel its filing of a criminal charge after the public prosecution is initiated.

ADDENDA

- (1) (Enforcement Date) This Act shall enter into force on November 1, 2002.
- (2) (Transitional Measures concerning Corrective Measures, Penalty Surcharges, and Penal Provisions) The application of corrective measures, penalty surcharge, and penal provisions to an offense committed before this Act enters into force in violation of [Article 23](#) (1) 1 (limited to unfair refusal to make transactions), 3 (limited to the unfair induction of customers of competitors to trade with oneself), 4, and 5 (limited to making of transactions on condition of placing unfair restraints on business activities of a certain transacting partner) and Article 29 (1) of the former [Monopoly Regulation and Fair Trade Act](#) shall be governed by the provisions of the aforesaid Act.

ADDENDUM <Act No. 7109, Jan. 20, 2004>

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

ADDENDA <Act No. 7315, Dec. 31, 2004>

Article 1 (Enforcement Date)

This Act shall enter into force on April 1, 2005. (Proviso Omitted.)

Articles 2 through 10 Omitted.

ADDENDA <Act No. 7796, Dec. 29, 2005>

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 2006.

Articles 2 through 6 Omitted.

ADDENDA <Act No. 8630, Aug. 3, 2007>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation: *Provided*, That the amended provisions of [Article 37](#) (2) shall enter into force three months after the date of its promulgation, and the amended provisions of [Articles 6-5](#), [15-2](#), and [15-3](#) one year after the date of its promulgation.

Article 2 (Applicability to Franchise Fees)

The amended provisions of subparagraph 6 of [Article 2](#) shall be applicable to franchise fees payable after this Act enters into force.

Article 3 (Applicability to Prohibition of Unfair Trade)

The amended provisions of subparagraph 4 of [Article 12](#) shall be applicable to franchise agreements executed or renewed on or after the entry into force of this Act.

Article 4 (Applicability to Renewal of Franchise Agreements)

The amended provisions of [Article 13](#) shall be applicable to franchise agreements executed or renewed on or after the entry into force of this Act.

Article 5 (Applicability to Limitations on Termination of Franchise Agreements)

The amended provisions of the main sentence of [Article 14](#) (1) shall be applicable to cases where an agreement is terminated due to a breach of the agreement on or after the entry into force of this Act.

Article 6 (Special Cases for Information Disclosure Statements)

Notwithstanding the amended provisions of [Article 6-2](#) and [7](#) (1) and (2), franchisers may provide pre-existing information disclosure statements for six months from the entry into force of this Act.

Article 7 (Transitional Measures concerning Notice of Termination of Franchise Agreements, etc.)

A notice of termination of a franchise agreement executed or renewed before this Act enters into force shall be governed by the former provisions.

Article 8 (Transitional Measures concerning Return of Franchise Fees)

The return of franchise fees shall be governed by the former provisions, if a franchiser provided false or exaggerated information in violation of former Article 9 (1), omitted a material fact under former Article 8 (2), or unilaterally suspended franchise business without a justifiable ground, before this Act enters into force. In such cases, the extent of the return of franchise fees paid before this Act enters into force shall be governed by former subparagraph 6 of [Article 2](#) and [Article 10](#).

Article 9 (Transitional Measures concerning Council)

- (1) The former Franchise Business Transaction Dispute Mediation Council at the time this Act enters into force shall be deemed the Council under the amended provisions of [Article 16](#).
- (2) Cases for which an application is filed or mediation proceedings are pending with the former Franchise Business Transactions Disputes Mediation Council at the time this Act enters into force shall be deemed cases for which an application is filed or mediation proceedings are pending with the Council under the amended provisions of [Article 16](#).
- (3) Members of the former Franchise Business Transaction Dispute Mediation Council at the time this Act enters into force shall be deemed persons appointed or commissioned pursuant to the amended provisions of [Article 17](#) (3). In such cases, the term of office of such members shall be the remaining term of their office.

Article 10 (Transitional Measures concerning Franchise Business Counsellors)

- (1) A person who has successfully passed the franchise business counsellor qualifying examination, who holds a franchise business counsellor license, or who has completed registration as a franchise business counsellor in accordance with the former provisions at

the time this Act enters into force shall be deemed a person who has successfully passed the franchise business trader qualifying examination, who holds a franchise trader license, or who has completed registration as a franchise trader in accordance with this Act.

- (2) A person whose registration as a franchise business counsellor has been cancelled or whose qualification has been suspended pursuant to the former provisions at the time this Act enters into force shall be deemed a person whose registration as a franchise trader has been cancelled or whose qualification has been suspended pursuant to this Act.

Article 11 (Transitional Measures concerning Penal Provisions and Fines for Negligence)

The application of penal provisions to, and the imposition of fines for negligence upon, an act committed before this Act enters into force shall be governed by the former provisions.

ADDENDUM <Act No. 10168, Mar. 22, 2010>

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