

The Act on the Prevention of Conflict of Interest Related to Duties of Public Servants

ACRC(Anti-corruption & Civil Rights Commission)

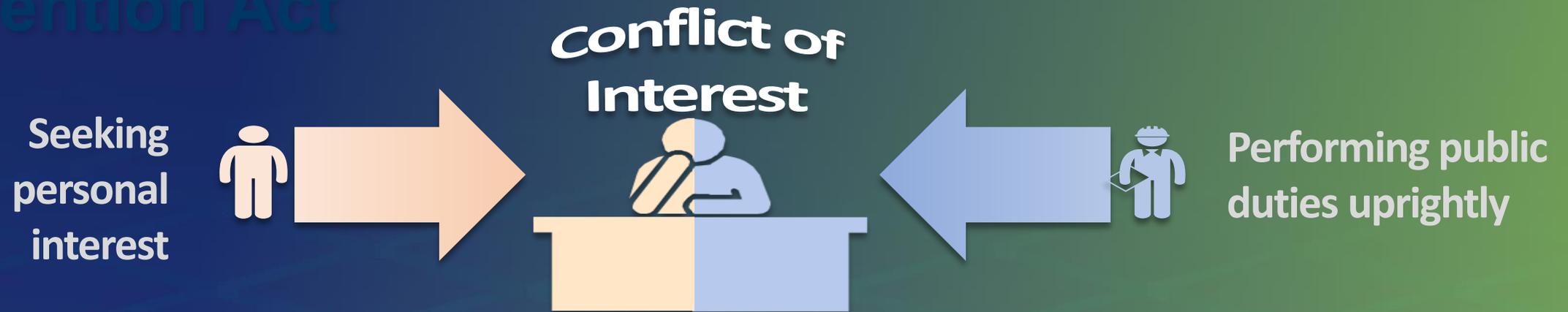
Republic of Korea



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1. Significance of the Conflict of Interest Prevention Act



The Act on the Prevention of Conflict of Interest Related to Duties of Public Servants was designed to **effectively manage and control conflict of interest situations** facing public servants while performing duties

Ensuring fair performance of duties
& Securing public trust

2. Background & Objective

Prevention Act

✓ To secure public trust by controlling new types of corruption

- **Corruption linked to personal interests of public officials**, including irregularities of hiring officials' family members and special treatment for retired officials, continuously occurred
- A legal tool to control conflict-of-interest situations in public office needed to address public distrust

✓ Lack of effective management tools for conflict of interest situations facing public officials

- In 2018, conflict-of-interest preventive provisions **first introduced** in the **Code of Conduct for Public Officials**
- However, with these provisions being **applied only to the administrative body** imposing sanctions **limited to disciplinary action**, their legal effect was limited in the case of elected officials including parliamentary members
- A need to establish conflict-of-interest preventive rules **in the upper law** arose

✓ To establish standards of conduct for public officials matching the level of those of international community

- A law for conflict of interest prevention up to the level required for OECD members, such as the U.S., Canada, and France, etc., needed

3. Overview of the Conflict of Interest Prevention Act

Subjects of Application

Public Officials of All Public Institutions

Public Institutions Article 2(1)

Constitutional institutions

the National Assembly, courts, Constitutional Court, election commissions, BAI;

CAAs & institutions affiliated therewith

CIO, NHRC;

Executive organs & local councils of local gov'ts, educational administrative agencies;

Public institutions, public service-related organizations; and

National/public schools of various levels

Public Officials Article 2(2)

Public officials under the State Public Officials Act or the Local Public Officials Act;

Heads of public institutions and PSROs, and executive officers and employees thereof; and

Heads & teachers & staff of national/public schools of various levels

Content of the Act : 10 Standards of Conduct

**5 obligations to disclose/submit information &
5 acts restricted or prohibited**

Disclosure & submission of information

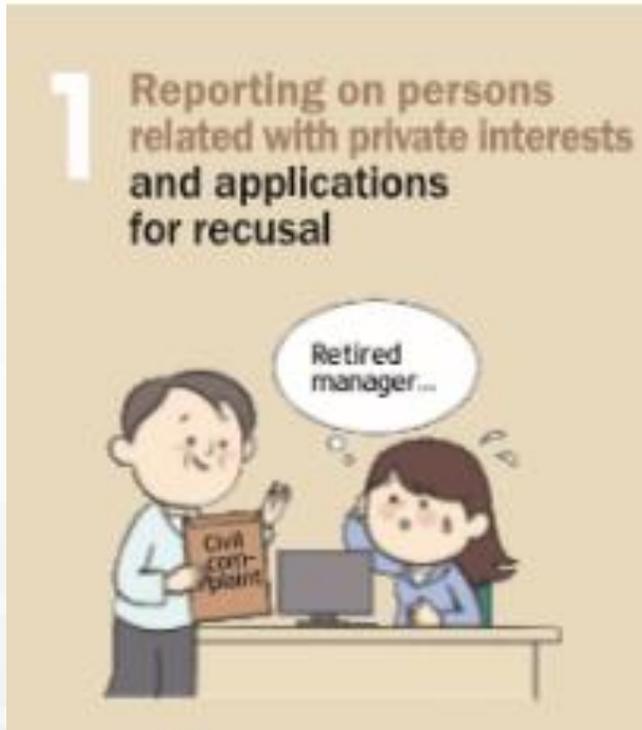
- 1 Reporting of privately interested persons & application for recusal
- 2 Disclosure of ownership/purchase of public duty-related real estate
- 3 Disclosure of records of high-ranking officials' business activities in the private sector
- 4 Disclosure of transactions with duty-related persons
- 5 Disclosure of personal contact with retirees

Restriction & prohibition

- 1 Restriction on duty-related outside activities
- 2 Restriction on employment of family members
- 3 Restriction on private contracts
- 4 Prohibition of private use of or profiting from public institutions' goods
- 5 Prohibition of use of job secrets, etc.

3. Overview of the Conflict of Interest Prevention Act

Content of the Act : 10 Standards of Conduct



1. Reporting of privately interested persons and application for recusal (Article 5)

- When public officials become aware of the fact that a duty-related person is a personally interested person, he/she should report the fact and apply for challenge to the head of their institution

3. Overview of the Conflict of Interest Prevention Act

Content of the Act : 10 Standards of Conduct

1. Reporting of privately interested persons and application for recusal (Article 5)

Case 1 : Privately Interested Persons Reporting



Official A in charge
of patent tasks



Patent application



Corporation with the spouse of
Official A as CEO

In case a company represented by the spouse of Official A who is in charge of patent tasks submits a patent application

The company falls upon both a person related to the public official's duties and privately interested persons

3. Overview of the Conflict of Interest Prevention Act

Content of the Act : 10 Standards of Conduct

1. Reporting of privately interested persons and application for recusal (Article 5)

Case 2 : Privately Interested Persons Reporting



In case a lawyer who had been B Company's legal counsel until one year ago was hired as a police investigator and is now investigating B Company's CEO

Company B falls upon both a person related to the public official's duties and privately interested persons

3. Overview of the Conflict of Interest Prevention Act

Content of the Act : 10 Standards of Conduct

1. Reporting of privately interested persons and application for recusal (Article 5)

Case 3 : Privately Interested Persons Reporting



Former supervisor who retired a year ago and now runs a restaurant

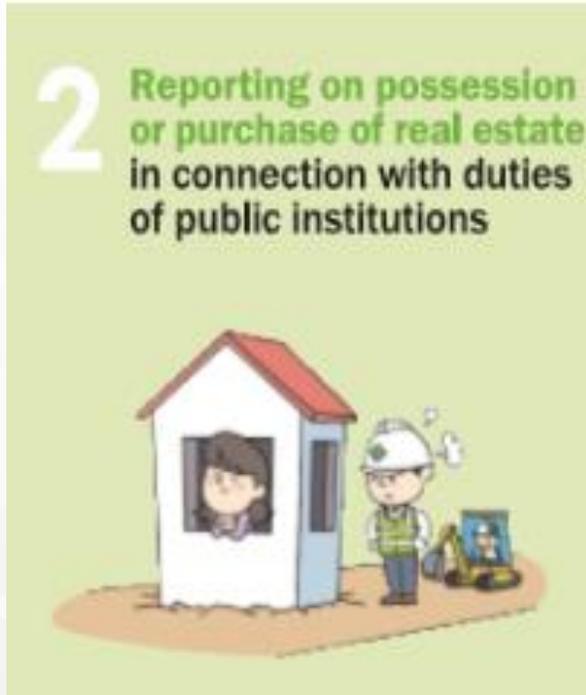
Junior official

A junior official is performing sanitation Inspection Task for a restaurant run by former supervisor who worked in the same division and retired a year ago

Retired official falls upon both a person related to the public official's duties and privately interested persons

3. Overview of the Conflict of Interest Prevention Act

Content of the Act : 10 Standards of Conduct



2. Reporting of ownership/purchase of duty-related real estate (Article 6)

- When public officials of public institutions **tasked with real estate development** or his/her spouse, or lineal ascendant/descendant who shares living **owns or purchases duty-related real estate**, he/she should report such facts to the head of his/her institution

3. Overview of the Conflict of Interest Prevention Act

Content of the Act : 10 Standards of Conduct



3. Submission of records of high-ranking officials' private sector activities (Article 8)

- High-ranking officials should submit to the head of their institution **records of their private sector activities conducted for three years prior to their appointment** within 30 days after their office term begins, and the head of their institution can release such records to the public

3. Overview of the Conflict of Interest Prevention Act

Content of the Act : 10 Standards of Conduct

3. Submission of records of high-ranking officials' private sector activities (Article 8)

TIP. Work Activities that must be submitted

1. Company and Organization he/she has worked for and What he/she did there
2. Details of Duties if performed a representation, advisory or consultation
3. Details of the business or profit-making activities that were managed and operated



3. Overview of the Conflict of Interest Prevention Act

Content of the Act : 10 Standards of Conduct

4. Reporting on transactions w/ duty-related person (Article 9)

- When a public servant becomes aware of **transactions of money, securities, or real estate, etc. b/w himself/herself, his/her spouse, lineal ascendant/descendant**, or specially related parties w/ duty-related persons, he or she shall report such facts to the head of his/her organization
 - Specially related parties mean legal persons or organizations of which the public official, his/her spouse, or lineal ascendant/descendant own 30% or more of the stocks or the total investment shares, or 50% or more of the total capital



3. Overview of the Conflict of Interest Prevention Act

Content of the Act : 10 Standards of Conduct

4. Reporting on transactions w/ duty-related person (Article 9)

Case of reporting of transactions with duty-related person

In case a public official, while investigating a reported case, finds out that their spouse has entered a contract to buy/sell a house with the reporter

3. Overview of the Conflict of Interest Prevention Act

Content of the Act : 10 Standards of Conduct



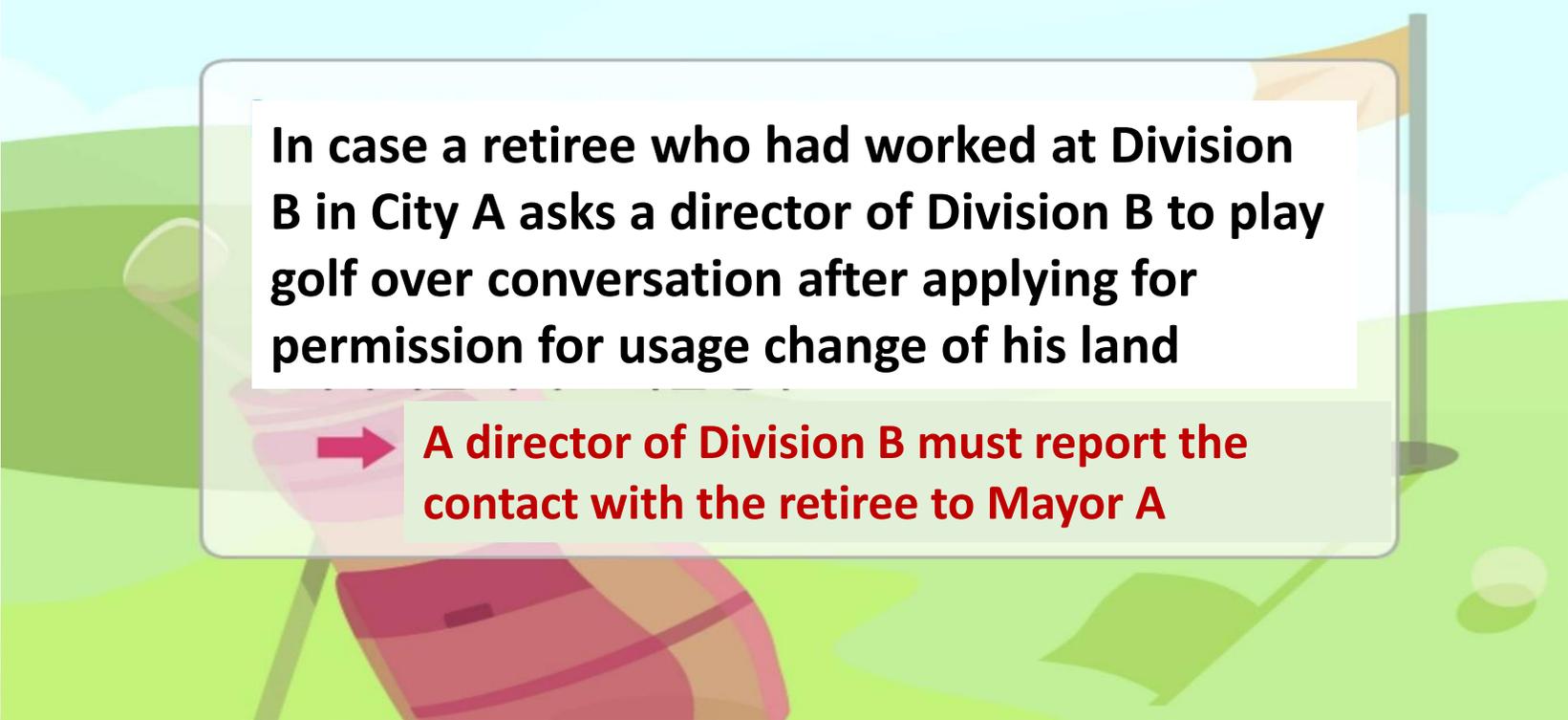
5. Reporting on personal contact with retiree (Article 15)

- A public servant should report to the head of his/her institution personal activities including golf, travel, and gambling w/ a duty-related former official retired from his/her institution less than two years ago

3. Overview of the Conflict of Interest Prevention Act

Content of the Act : 10 Standards of Conduct

5. Reporting on personal contact with retiree (Article 15)



In case a retiree who had worked at Division B in City A asks a director of Division B to play golf over conversation after applying for permission for usage change of his land



A director of Division B must report the contact with the retiree to Mayor A

3. Overview of the Conflict of Interest Prevention Act

Content of the Act : 10 Standards of Conduct



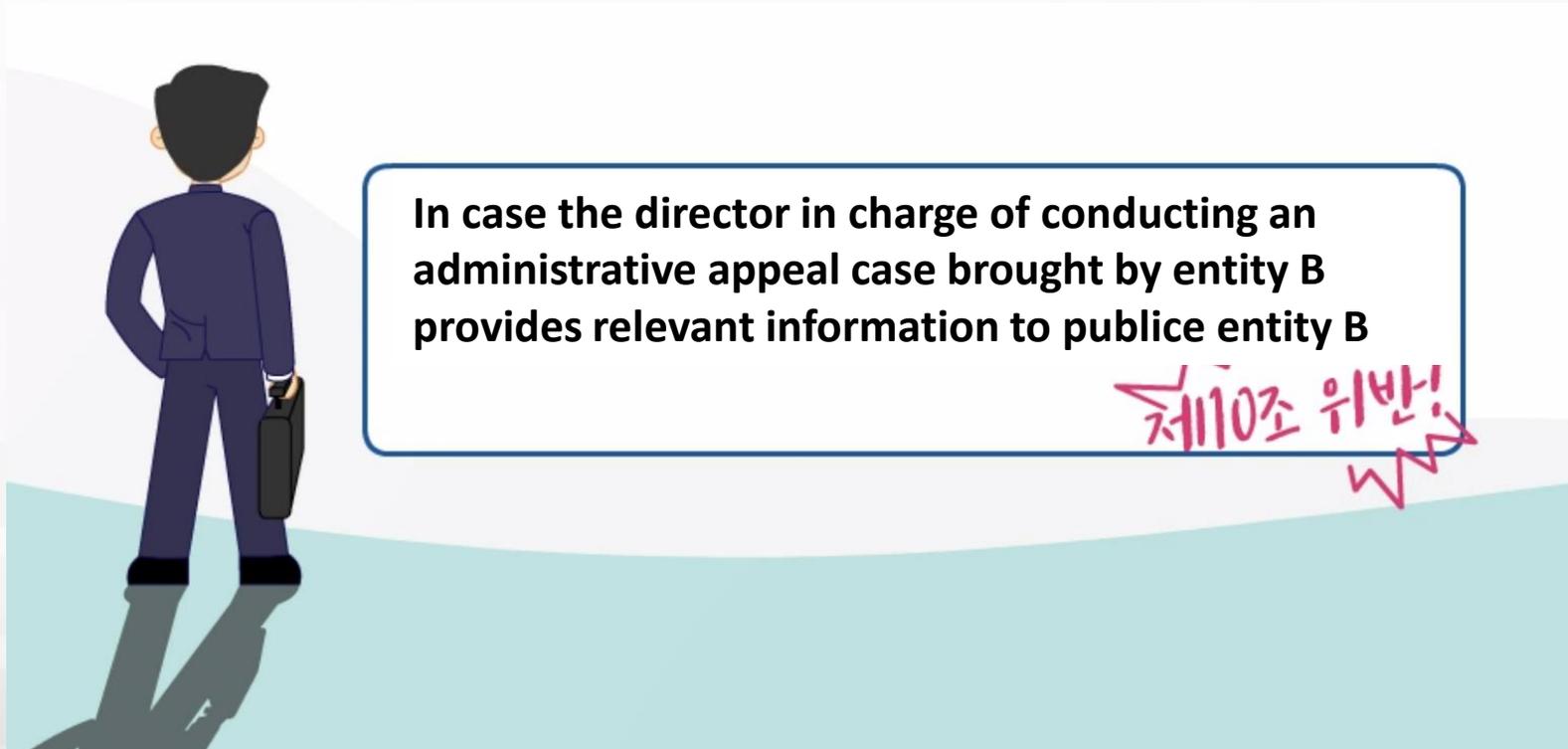
6. Restriction on duty-related outside activities (Article 10)

- Public servants are prohibited from engaging in outside activities that can hinder fairness in the performance of their duties including **personally providing labor or advice to duty-related persons in return for payment**

3. Overview of the Conflict of Interest Prevention Act

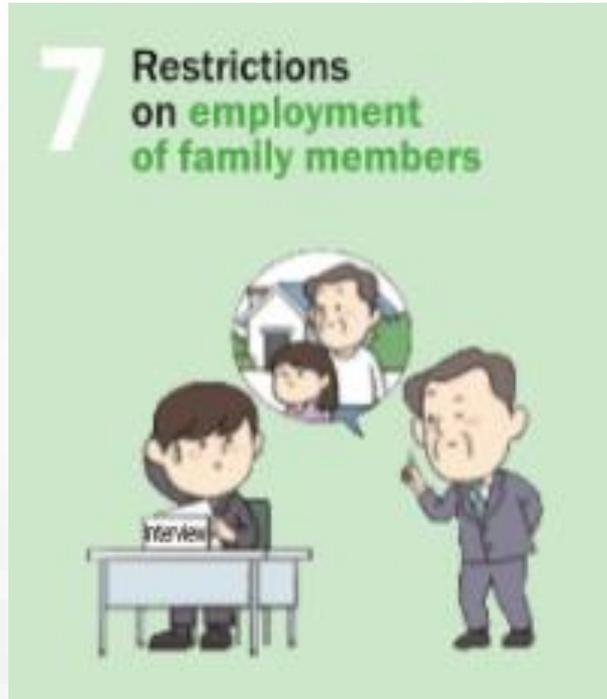
Content of the Act : 10 Standards of Conduct

6. Restriction on duty-related outside activities (Article 10)



3. Overview of the Conflict of Interest Prevention Act

Content of the Act : 10 Standards of Conduct



7. Restriction on employment of family members (Article 11)

- **Unless there is a competitive process**, public institutions (including its subsidiaries or affiliated organizations) should not hire **family members of high-ranking public officials, etc.**

3. Overview of the Conflict of Interest Prevention Act

Content of the Act : 10 Standards of Conduct

7. Restriction on employment of family members (Article 11)

In case a government agency hires the son/daughter of the minister as a civil servant without going through an open competition process



3. Overview of the Conflict of Interest Prevention Act

Content of the Act : 10 Standards of Conduct



8. Restriction on private contracts (Article 12)

- Public institutions (including its subsidiaries or affiliated organizations) should not make private contracts for goods, services, construction, etc. with **their high-ranking officials and their family members, etc.**
- Public institutions can **request confirmation document to make sure whether the other party to a contract (including foreign firms) is subject to the restriction on private contracts**

3. Overview of the Conflict of Interest Prevention Act

Content of the Act : 10 Standards of Conduct

8. Restriction on private contracts (Article 12)

Restriction on public institution from awarding contracts to company owned by family members of senior officials within the same institution for the purpose of building a new computer system



3. Overview of the Conflict of Interest Prevention Act

Content of the Act : 10 Standards of Conduct



9. Prohibition of private use of or profiting from PI's goods (Article 13)

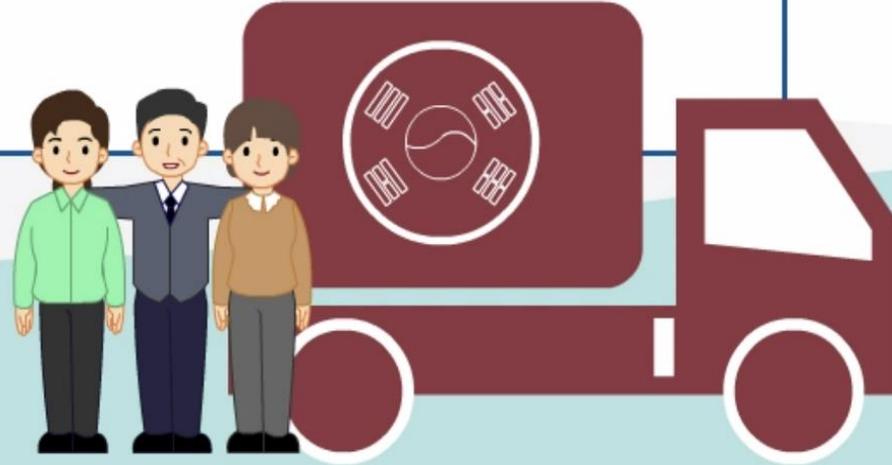
- Public servants are prohibited from **privately using or profiting** from goods, vehicles, facilities, etc. owned/rented by public institutions or **allowing a third party to use or profit from them**

3. Overview of the Conflict of Interest Prevention Act

Content of the Act : 10 Standards of Conduct

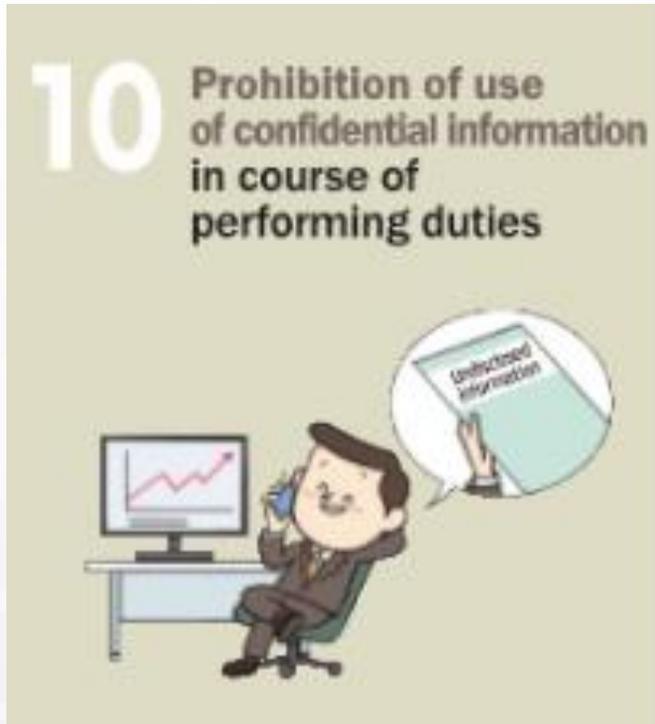
9. Prohibition of private use of or profiting from PI's goods (Article 13)

In case a government employee uses an agency vehicle to move his/her child's luggage



3. Overview of the Conflict of Interest Prevention Act

Content of the Act : 10 Standards of Conduct



10. Prohibition of use of duty-related secrets, etc. (Article 14)

- Public servants are prohibited from using **secrets or confidential information of the public institution** that they obtained while performing duties to **gain financial benefits for themselves or a third party**

3. Overview of the Conflict of Interest Prevention Act

Content of the Act : 10 Standards of Conduct

10. Prohibition of use of duty-related secrets, etc. (Article 14)

In case a person acquires confidential information about a new city development plan from a public official and purchases farmland within the planned development area



3. Overview of the Conflict of Interest Prevention Act

Content of the Act : 10 Standards of Conduct

Public servants are prohibited from using **secrets or undisclosed information of the public institution** that they attain while **performing duties** to :

- ① get **valuables or financial benefits** for themselves or a 3rd party;

↔ Imprisonment of less than 7 years, fine of less than 70 million won(\$52,000)

- ② personally use them for themselves or a 3rd party even though no valuable or financial benefit was given.

↔ Imprisonment of less than 3 years, fine of less than 30 million won(\$22,000)

3rd parties are prohibited from receiving from public servants **duty-related secrets or undisclosed information** or from **obtaining such information illegitimately to obtain valuables or financial benefits**.

↔ Imprisonment of less than 5 years, fine of less than 50 million won(\$37,000)

4. Expected Outcomes

✓ Preemptive prevention of seeking personal benefits by public officials

- Meeting the trends in the int'l community emphasizing preemptive prevention of corruption
- examples: UN Convention Against Corruption (UNCAC), OECD Guidelines for Managing Conflict of Interest in the Public Services

✓ Effective management of conflicts of interest related to duties of high-ranking officials who have a higher likelihood of facing conflict of interest situations

✓ Restoring confidence at home and abroad regarding the public office in Korea

Thank you!

