

Promulgated on March 21, 2011, Effective on July 1, 2011

11 Crimes Related to Official Documents

This guideline applies to adult offenders (nineteen years of age or older) who has committed any of the following offenses: Forgery and Alteration of an Official Documents, and Other Similar Documents (Criminal Act, Article 225), Making Falsified Official Documents and Other Similar Documents for Employment Purposes (Criminal Act, Article 226), Making and Altering False Official Documents (Criminal Act, Article 227), Forging and Altering Official Electronic Records (Criminal Act, Article 227-2), Making False Entry of an Officially Authenticated Original Deed (Criminal Act, Article 228, paragraph 1), Uttering the Foregoing Documents (Criminal Act, Article 229), or Wrongfully Uttering of Official Documents, or Other Similar Documents (Criminal Act, Article 230)

I. TYPES OF OFFENSE AND SENTENCING PERIODS

01 | FORGERY, ALTERATION, AND OTHER SIMILAR CONDUCTS OF OFFICIAL DOCUMENTS AND OTHER SIMILAR DOCUMENTS

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Non-commercial or non-organizational	4months - 1yr	8months - 2yrs	1y 6months - 3yrs
2	Commercial or organizational	1y - 2yrs 6months	1y 6months - 3yrs	2yrs 6months - 5yrs

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Engaging in Offense or Motive for Committing Offense Can be Taken into Particular Consideration No Social Damage Caused Due to Incomplete Commission of the Offense's Purpose 	<ul style="list-style-type: none"> Cases where the Offender is a Central Figure, Executive, Professional Technician, or a Person Directly in Charge of Brokering and Conveying to the Aforementioned Persons in Positions (Type 2) Forgery and Altering Multiple Documents Repeatedly Serious Social and Economic Harm Resulting From the Offense Instigating the Subordinate Person to Commit the Offense
	Actor /Etc.	<ul style="list-style-type: none"> Those with Hearing and Visual Impairments Those with Mental Incapacity (Cases Where the Offender Cannot be Held Liable) Voluntary Surrender to Investigative Agencies 	<ul style="list-style-type: none"> Repeated Offenses of the Same Type Under the Criminal Act(Includes Crimes Related to Private Documents)

Classification		Mitigating Factor	Aggravating Factor
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> ● Passive Participation ● Compared to the Entire Document, Only Small Parts of the Document Was Altered ● False Entry of an Officially Authenticated Original Deed and Uttering of the Document Thereof 	<ul style="list-style-type: none"> ● Offender Made Requests to Professionals Engaging in Forgery or Brokers of Such Activities ● Those Who Committed Forgery or Altering of Documents Also Utters the Falsified Documents ● Forgery or Alteration of Important Documents Involving High Public Confidence Such As Written Judgments or Passports (However, Offenses That Caused Serious Social and Economic Damages are Excluded) ● Use of Professional Forgery or Altering Devices (Such as Color Printers, Scanners, and Other Similar Devices)
	Actor /Etc.	<ul style="list-style-type: none"> ● No Prior Criminal History ● Expresses Sincere Remorse 	<ul style="list-style-type: none"> ● Repeated Offenses of Different Type under the Criminal Act , Criminal History by the Same Type of Offenses that Does not Constitute Repeated Offense under the Criminal Act (Includes Crimes Related to Private Documents)

02¹ MAKING OR ALTERING FALSIFIED OFFICIAL DOCUMENTS

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Passive Purpose	- 8months	4months - 10months	8months - 1yr 6months
2	Active Purpose	6months - 1yr 6months	8months - 2yrs	1yr 6months - 2yrs 6months

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Engaging in Offense or Motive for Committing Offense Can be Taken into Particular Consideration Profits Gained From the Offense or Social and Economic Damages Caused Are Insignificant 	<ul style="list-style-type: none"> Offender Participated in Organized Crime Serious Social and Economic Harm Resulting From the Offense Instigating the Subordinate Person to Commit the Offense
	Actor /Etc.	<ul style="list-style-type: none"> Those with Hearing and Visual Impairments Those with Mental Incapacity (Cases Where the Offender Cannot be Held Liable) Voluntary Surrender to Investigative Agencies 	<ul style="list-style-type: none"> Criminal History of the Same Offense (Including Offenses of Falsifying Private Documents) Within Five Years or Less or Prior Records of Disciplinary Actions Deliberate Concealment of Profits Gained from the Offense or Obstructing Recovery of Damages
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Passive Participation 	<ul style="list-style-type: none"> Those Who Committed Forgery or Altering of Documents Also Utters the Falsified Documents
	Actor /Etc.	<ul style="list-style-type: none"> Faithful Long-Term Serving of Duties without Disciplinary Actions(Record of Award, etc considered) Expresses Sincere Remorse 	<ul style="list-style-type: none"> Concealing Evidence or Attempts to Conceal After the Commission of the Offense Repeated Offenses of Different Type under the Criminal Act , Criminal History by the Same Type of Offenses that Does not Constitute Repeated Offense under the Criminal Ac (Includes Crimes Related to Private Documents)

03 | WRONGFUL UTTERING OF OFFICIAL DOCUMENTS AND OTHER SIMILAR DOCUMENTS

Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
Wrongful uttering of official document, etc.	- 6months	4months - 10months	6months - 1yr 6months

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> ● Offense Committed for Basic Living Expenses 	<ul style="list-style-type: none"> ● When the Purpose of the Crime is Achieved (Profit Gained is Not an Insignificant Amount) ● Cases of Impersonating As a Public Official ● Instigating the Subordinate Person to Commit the Offense
	Actor /Etc.	<ul style="list-style-type: none"> ● Those with Hearing and Visual Impairments ● Those with Mental Incapacity (Cases Where the Offender Cannot be Held Liable) ● Voluntary Surrender to Investigative Agencies 	<ul style="list-style-type: none"> ● Repeated Offenses of the Same Type Under the Criminal Act
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> ● No Social Damage Caused Due to Failure To Complete the Offense's Purpose 	<ul style="list-style-type: none"> ● Obtaining Official Documents by Unlawful Means (Excludes Cases where the Act of Obtaining the Document Constitutes a Separate Crime)
	Actor /Etc.	<ul style="list-style-type: none"> ● No Prior Criminal History ● Cases Where Expatriation is Expected ● Expresses Sincere Remorse 	<ul style="list-style-type: none"> ● Repeated Offenses of Different Type under the Criminal , Criminal History by the Same Type of Offenses that Does not Constitute Repeated Offense under the Criminal Ac (Includes Crimes Related to Private Documents)

[DEFINITION OF OFFENSES]

01¹ FORGERY, ALTERATION, AND THE LIKE OF OFFICIAL DOCUMENTS, AND OTHER SIMILAR DOCUMENTS

1. TYPE 1 NON-COMMERCIAL OR NON-ORGANIZATIONAL : FORGERY, ALTERING DOCUMENTS THAT ARE NON-COMMERCIAL OR NON-ORGANIZATIONAL BASED

– Acts involving forgery or altering that does not falling within Type 2.

2. TYPE 2 COMMERCIAL OR ORGANIZATIONAL : FORGERY, ALTERING DOCUMENTS THAT ARE COMMERCIAL OR ORGANIZATION BASED

– “Commercial offense” indicates cases where the offender engages in acts of forgery or altering commercially; “organizational offense” indicates cases where the organization in question is comprised of a chief, broker, delivery, or other schemes for the commission of the crime.

- This means offenses with the following elements of offense as prescribe in the applicable law (Applies to all offenses).

Elements of Offense	Applicable Law
Forging and altering official documents and other similar documents and uttering the documents thereof	Criminal Act, Article 225, Article 229
Making of falsified official documents and other similar documents for employment purposes and uttering the documents thereof	Criminal Act, Article 226, Article 229
Forging and altering of official electronic records and uttering documents thereof	Criminal Act, Article 227-2, Article 229
Entering false entry of an officially authenticated original deed and uttering documents thereof	Criminal Act, Article 228, paragraph 1, Article 229

02¹ MAKING AND ALTERING FALSE OFFICIAL DOCUMENTS

1. TYPE 1 PASSIVE PURPOSE : PASSIVE PURPOSE INCLUDES CONDUCTS THAT ASSISTS CONVENIENCE FOR PERFORMING DUTIES, EXPEDIENTS PERFORMANCE OF ONE’S DUTIES, CONCEALS ERRORS MADE WHILE ON DUTY, AND OTHER SIMILAR CONDUCTS.

- Offender falsified official documents by not verifying the document’s contents through on-site inspection.
- Offender falsified official documents by wrongfully stating that the act in question was overseen directly by the supervisor, where in actuality, was conducted by an assistant.
- The purpose of the illegal conduct was to conceal any mistakes made while on duty.

2. TYPE 2 ACTIVE PURPOSE : ACTS WITH AN ACTIVE PURPOSE TO OBTAIN BENEFITS

- Entering false reports on investigation or examination documents.
- Providing convenience to the person being managed.
- Making false official documents for the purpose of obtaining benefits.
- Other cases with comparable factors.

Elements of Offense	Applicable Law
Making or altering of false documents and uttering documents thereof	Criminal Act, Article 227, Article 229

03¹ WRONGFUL UTTERING OF OFFICIAL DOCUMENTS OR OTHER SIMILAR DOCUMENTS

Elements of Offense	Applicable Law
Wrongful uttering of official documents or other similar documents	Criminal Act, Article 230

[DEFINITION OF SENTENCING FACTORS]

01¹ FORGERY, ALTERATION, AND THE LIKE OF OFFICIAL DOCUMENTS, AND OTHER SIMILAR DOCUMENTS

1. ENGAGING IN OFFENSE OR MOTIVE FOR COMMITTING OFFENSE CAN BE TAKEN INTO PARTICULAR CONSIDERATION

- This means one or more of the following factors apply:
 - Participation in the crime was forced by another person or resulted from threats (This excludes cases where Criminal Act, Article 12 is applicable);
 - When the offender merely agreed to participate in the crime but did not lead or actually participate in the commission of the crime;
 - Crime committed by mere curiosity or ostentation;
 - Motive for crime was not for the purpose of obtain illegal benefits or solely for the purpose of other minor benefits; or
 - Other cases with comparable factors.

2. NO SOCIAL DAMAGE CAUSED DUE TO FAILURE TO COMPLETE THE PURPOSE OF THE OFFENSE

- This means cases where the offender could not complete the purpose of the offense and possible social and economic damages that could have resulted from the offense did not occur.

3. CASES WHERE THE OFFENDER IS A CENTRAL FIGURE, EXECUTIVE, PROFESSIONAL TECHNICIAN, OR A PERSON DIRECTLY IN CHARGE OF BROKERING AND CONVEYING TO THE AFOREMENTIONED PERSONS IN POSITIONS

- This means cases where the offender holds a vital position in the criminal organization such as an actual central figure, executive, professional technician that engages in forgery and falsification, and executives of middle rank or higher in charge of the brokering or conveying the documents.

4. SERIOUS SOCIAL AND ECONOMIC HARM RESULTING FROM THE OFFENSE

- This means cases where the crime has caused enormous economic losses; the offender acquired large amounts of benefit, numerous victims to the offense; and other similar consequences causing social and economic disturbance as well as serious and severe damages resulted from the offense.

5. PASSIVE PARTICIPATION

- This means cases where the nature of participation in the commission of the offense was passive or the offender had a limited role.
- However, this is not applicable in cases where the offender had an active role in the commission of the offense by causing another person to commit the offense.

6. COMPARED TO THE ENTIRE DOCUMENT, ONLY SMALL PARTS OF THE DOCUMENT WAS ALTERED

- This means the part of the document that was altered did not involve affecting significant legal relations (for example, simple alteration of date irrelevant to lapse of a right).

7. OFFENDER MADE REQUESTS TO PROFESSIONALS ENGAGING IN FORGERY OR BROKERS OF SUCH ACTIVITIES

- This means the offender, who is not a professional forger or involved in such organizations, has made requests of forgery or falsifying documents to a professional forger, broker, or a member of an organization engaged in forgery (For example, this includes requesting forgery or falsification to a professional forger or a broker of such criminal organization through the use of internet websites).

8. FORGERY OR ALTERATION OF IMPORTANT DOCUMENTS INVOLVING HIGH PUBLIC CONFIDENCE SUCH AS WRITTEN JUDGMENTS OR PASSPORTS (HOWEVER, OFFENSES THAT CAUSED SERIOUS SOCIAL AND ECONOMIC DAMAGES ARE EXCLUDED)

- This means the document subjected to the forgery or falsification has high public

confidence in the society or certifies important legal relations or facts including written court judgments, passports, certification of important legal status, patent certificates, personal seal authentication certificates, and the like (However, if applicable to cases that caused serious social and economic damage, this is not considered as a general sentencing factor).

02¹ MAKING AND ALTERING FALSE OFFICIAL DOCUMENTS

1. ENGAGING IN OFFENSE OR MOTIVE FOR COMMITTING OFFENSE CAN BE TAKEN INTO PARTICULAR CONSIDERATION

- This means one or more of the following factors apply:
 - Participation in the crime was forced by another person or resulted from threats (This excludes cases where Criminal Act, Article 12 is applicable);
 - When the offender merely agreed to participate in the crime but did not lead or actually participate in the commission of the crime;
 - Crime committed by mere curiosity or ostentation;
 - Motive for crime was not for the purpose of obtain illegal benefits or solely for the purpose of other minor benefits;
 - Where the offender has carelessly followed performing official duties that has been a continuous custom by the former person in charge or others performing similar duties; or
 - Other cases with comparable factors.

2. OFFENDER PARTICIPATED IN ORGANIZED CRIME

- This means cases where the offender has committed the crime of falsifying documents by participating in an organized scheme involving an outside criminal organization.

3. SERIOUS SOCIAL AND ECONOMIC HARM RESULTING FROM THE OFFENSE

- This means one or more of the following factors apply:
 - The offender has caused serious disruption to the investigation by leaking

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- confidential information related to the investigation;
 - An innocent person was subject to criminal penalty or disciplinary action;
 - Where the falsified official document caused an administrative action or revoking of an official license, thereby causing considerable harm; or
 - Other cases with comparable factors.

03 | WRONGFUL UTTERING OF OFFICIAL DOCUMENTS OR OTHER SIMILAR DOCUMENTS

1. IMPERSONATING AS A PUBLIC OFFICIAL

- This means cases where the misrepresentation results from wrongful uttering of official documents by the offender that constitutes the crime of impersonating as a public official.
- ※ When the offender impersonates a public official by means of wrongful uttering of an official document, the offense is not to be treated as a multi-count conviction, but to be considered only as a sentencing factor.

2. OBTAINING OFFICIAL DOCUMENTS BY WRONGFUL MEANS(EXCLUDES CASES WHERE THE ACT OF OBTAINING THE DOCUMENTS CONSTITUTE A SEPARATE CRIME)

- This means cases where the official document which the offender obtain unlawfully, nevertheless is not constitute as a separate offense and thereby subject to separate punishment (exemption of punishment for crimes among relatives, where victims are unspecified, and other cases).

[ASSESSING PRINCIPLES APPLICABLE TO THE SENTENCING FACTORS]

01 | DETERMINING APPROPRIATE SENTENCING RANGE

- In determining the appropriate sentencing range, the judge must only consider the special sentencing determinants.
- However, in cases involving more than two special sentencing determinant, the applicable sentencing range is adjusted after assessing the factors as set forth below:
 - ① The same number of conduct factor shall be considered with greater significance than the actor/etc. factor.
 - ② Each factor within the relevant categories of conduct or actor/etc. factors should be treated as equal.
 - ③ If the applicable sentencing range is unable to be determined by the aforementioned principles ①, ②, the judge is to decide the applicable sentencing range through a comprehensive comparison and assessment based on the principles set forth in ①, ②.
- It is recommended that when the assessment reveals greater aggravating factors to select the aggravated zone, the mitigating factors is greater to select the mitigating zone, and the same number of aggravating factors and mitigating factors to select the standard zone as a sentencing range.

02 | DETERMINING THE APPLICABLE SENTENCE

- The judge should select the proper point within the sentencing range as assessed in accordance with the above principles, along with the special sentencing determinant and general sentencing determinant taken together.

[GENERAL APPLICATION PRINCIPLES]

01 | SPECIAL ADJUSTMENTS TO THE SENTENCING RANGE

- ① In cases where the aggravating factor is selected and the assessment of the special sentencing determinant reveals only two or more special aggravating factors or the special sentencing determinant outnumbers the special mitigating determinant by two or more, then the sentencing range should be increased up to 1/2 from the maximum level.
- ② For cases where the mitigating factor is selected as a result of assessment of the special sentencing determinant, and there are two or more special mitigating determinant or the special mitigating determinant outnumbers the special aggravating determinant by two or more, the sentencing range should be decreased up to 1/2 from the minimum level.

02 | RELATION BETWEEN THE RECOMMENDED SENTENCING RANGE GUIDELINES AND APPLICABLE SENTENCING RANGE BY LAW

When the sentencing range under this guideline conflicts with the range drawn in accordance with the aggravation and mitigation of applicable law, the sentencing range prescribed by applicable law governs.

03 | APPLICATION OF STATUTORY MITIGATING FACTORS AS DISCRETIONARY

When the judge declines to apply the optional mitigation factor under the applicable law as listed in the sentencing table of this guideline, this shall be considered as the discretion for mitigation.

[GUIDELINE ON MULTI-COUNT CONVICTIONS]

01 | APPLICABLE SCOPE


- This part on multi-count convictions applies to concurrent crimes prescribed in the first part of Article 37 of the Criminal Act as set forth in this sentencing guideline. However, in cases of this article's concurrent crimes where offenses that fall within and outside of the sentencing guidelines are involved, the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

02 | DETERMINING BASE OFFENSE

- The "base offense" means the most severe offense that results after the selection of penalty and statutory aggravation and mitigation as prescribed in Criminal Act, Article 50. However, in cases where the maximum sentencing range is lower than that of the maximum sentencing range of the other counts as provided in this guideline, then such other count becomes the base offense.

03 | CALCULATING SENTENCING RANGE

- For purposes of calculating sentencing range for multi-count conviction cases, the judge shall apply the following unless the offenses are deemed as a single offense under the sentencing guideline.
 - ① In setting sentencing range for an offender convicted of two counts, the sentencing range should be the total sum of the maximum sentencing range of the base offense and the 1/2 of the maximum sentencing range of the second count.
 - ② In setting sentencing range for an offender convicted of three or more counts, the sentencing range should be the total sum of the following: (1) maximum sentencing range of the base offense, (2) 1/2 of the maximum sentencing range of the count with the highest sentencing range, and (3) 1/3 of the maximum sentencing range of the remaining count with the second highest sentencing range.

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- ③ For cases where the minimum sentencing range of the other count is higher than that of the base offense, the minimum sentencing range resulting from the multi-count offense should be the minimum sentencing range of the other count.
 - ※ When the offender who forges, alters, or falsifies official documents commits offenses of uttering such documents, the offense is not to be treated as a multi-count conviction, but to be considered only as a sentencing factor

II. GUIDELINE ON SUSPENSION OF SENTENCE

Classification	Adverse	Affirmative
<p>Primary Consideration Factor</p>	<ul style="list-style-type: none"> ● Criminal History of the Same Offense (Within Five Years) or Prior Records of Disciplinary Actions on the Same Offense ● Forgery or Alteration of Important Documents Involving High Public Confidence Such As Written Judgments or Passports ● Serious Social and Economic Harm Resulted From the Offense ● Commercial or Organizational Crime 	<ul style="list-style-type: none"> ● Engaging in Offense or Motive for Committing Offense Can be Taken into Particular Consideration ● Offense Failed to Cause Social Damage or the Social and Economic Harm Caused Are Insignificant ● Expresses Penitence (Including Voluntary Surrender or Confessions, Whistle-blowing, and the Like) ● No Prior Criminal History
<p>General Consideration Factor</p>	<ul style="list-style-type: none"> ● Two or More Criminal History on Suspension of Sentence or for a Greater Offense ● Active Participation as an Accomplice ● Destroying Evidence or Attempting to Conceal Evidence After Commission of the Offense ● Lack of Social Ties ● Absence of Remorse ● Absence of Efforts to Reverse Harm 	<ul style="list-style-type: none"> ● Passive Participation As an Accomplice ● Strongly-Established Social Ties ● No Criminal History of Suspension of Sentence or Imposing of Other Sentences More Severe ● Cases of Physically-ill Offenders ● Cases where the Arrest of the Offender would Cause Severe Hardship to the Offender's Dependent Family Member ● Cases of Old-age Offenders ● Expresses Sincere Remorse ● Faithful Long-Term Serving of Duties without Disciplinary Actions (Making and Altering Falsified Official Documents)

[DEFINITIONS OF CONSIDERATION FACTORS FOR SUSPENSION OF SENTENCE]

- In cases where the consideration factors for suspension of sentence of sentencing and the sentencing factors are identical, refer to the definitions set forth in the *Definition of Sentencing Factors*.

- Determining Criminal History
 - Prior criminal history is calculated as follows: In cases involving suspension of sentence, calculate from the date the defendant's suspension of sentence was affirmed up to the date of the commission of the offense. In cases imposing imprisonment, calculate from the final date of the completion of the sentence up to the date of the commission of the offense.

[ASSESSING PRINCIPLES APPLICABLE TO THE CONSIDERATION FACTORS FOR SUSPENSION OF SENTENCE]

- For cases where the imposing penalty is imprisonment, in deciding whether the suspension of sentence is appropriate, the primary consideration factor should be taken into account with greater importance than the general consideration factors. This is further specified as follows:
 - ① In cases where only two or more primary affirmative factors exist or when primary affirmative factors outnumber the major adverse factor by two or more, suspension of sentence is recommended.
 - ② In cases where two or more primary adverse factors exist or when primary adverse factors outnumber the primary affirmative factor by two or more, imprisonment is recommended.
 - ③ In cases other than ①, ②, or even if cases of ①, ②, if the difference between the number of general adverse (affirmative) factors and general affirmative (adverse) factors is greater than that of adverse and affirmative factors of the primary consideration, then the judge shall decide whether to suspend the sentencing after assessing and comprehensively taking into account the factors listed under the suspension of sentence section.