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Chapter 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), and Wrongfully Uttering of Official Documents, or Other Similar Documents (Criminal Act, Article 230).

PART A — TYPES OF OFFENSES 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	4 mos. - 1 yr.	8 mos. - 2yrs	1 yr. 6 mos. - 3 yrs.
2	Commercial or organizational	1 yr. - 2 yrs. 6 mos.	1 yr. 6 mos. - 3 yrs.	2 yrs. 6 mos. - 5 yrs.



CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> • Consideration can be taken into account for engaging in the offense or the motive for committing the offense. • 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 persons in positions mentioned (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
Special Sentencing Determinant	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)
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> • Offender's passive participation • Compared to the entire document, only small parts of the document were 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)
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> • No prior criminal history • Expresses sincere remorse 	<ul style="list-style-type: none"> • Different types of repeated offenses under the Criminal Act or crimes of violence that do not constitute a 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 Motives	- 8 mos.	4 mos. - 10 mos.	8 mos. - 1 yr. 6 mos.
2	Active Motives	6 mos. - 1 yr. 6 mos.	8 mos. - 2 yrs.	1 yr. 6 mos. - 2 yrs. 6 mos.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> • Consideration can be taken into account for engaging in the offense or the motive for committing the offense. • 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
Special Sentencing Determinant	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"> • Offender's passive participation 	<ul style="list-style-type: none"> • Those who committed forgery or altering of documents also utters the falsified documents
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> • Faithful long-term serving of duties without disciplinary actions (record of awards, and others considered) • Expresses sincere remorse 	<ul style="list-style-type: none"> • Concealing evidence or attempts to conceal after the commission of the offense • Different types of repeated offenses under the Criminal Act or crimes of violence that do not constitute a repeated offense under the Criminal Act (includes crimes related to private documents)

03¹ 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.	- 6 mos.	4 mos. - 10 mos.	6 mos. - 1 yr. 6 mos.

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
Special Sentencing Determinant	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)
General Sentencing Determinant	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"> Different types of repeated offenses under the Criminal Act or crimes of violence that do not constitute a repeated offense under the Criminal Act (includes crimes related to private documents)

DEFINITION OF OFFENSES

01 | FORGERY, ALTERATION, AND THE LIKE OF OFFICIAL DOCUMENTS, AND OTHER SIMILAR DOCUMENTS

* This means offenses with the following elements of crime as prescribe in the applicable law (This 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

(1) TYPE 1 — NON-COMMERCIAL OR NON-ORGANIZATIONAL: FORGERY, OR ALTERING DOCUMENTS THAT ARE NON-COMMERCIAL OR NON-ORGANIZATIONAL BASED

- Acts involving forgery or altering that do not fall within Type 2.

(2) TYPE 2 — COMMERCIAL OR ORGANIZATIONAL: FORGERY OR 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.



02 | MAKING AND ALTERING FALSE OFFICIAL DOCUMENTS

(1) TYPE 1 — PASSIVE PURPOSE

(INCLUDES CONDUCTS THAT ASSIST 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, the conduct was committed 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.

03 | 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

01 | FORGERY, ALTERATION, AND THE LIKE OF OFFICIAL DOCUMENTS, AND OTHER SIMILAR DOCUMENTS

(1) THE MOTIVE OR OTHER MATTERS FOR ENGAGING IN THE OFFENSE CAN BE TAKEN INTO 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 the Criminal Act, Article 12 is applicable)
 - The offender merely agreed to participate in the crime but did not lead in committing the crime or actually participate
 - Crime committed by mere curiosity or ostentation
 - The motive for the crime was to obtain illegal benefits or solely for the purpose of other minor benefits
 - Other cases with comparable factors

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

- This indicates cases in which 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 PERSONS IN POSITIONS MENTIONED

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

(5) OFFENDER'S PASSIVE PARTICIPATION

- This indicates cases in which 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 in which 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 the date that is irrelevant to the 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 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) THE MOTIVE OR OTHER MATTERS FOR ENGAGING IN THE OFFENSE CAN BE TAKEN INTO 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 the Criminal Act, Article 12 is applicable)
 - The offender merely agreed to participate in the crime but did not lead in committing the crime or actually participate
 - Crime committed by mere curiosity or ostentation
 - The motive for the crime was to obtain illegal benefits or solely for the purpose of other minor benefits
 - Where the offender has carelessly followed performing official duties that have been a continuous custom by the former person in charge or others performing similar duties
 - Other cases with comparable factors

(2) OFFENDER PARTICIPATED IN ORGANIZED CRIME

- This indicates cases in which 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 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
 - Other cases with comparable factors



03 | WRONGFUL UTTERING OF OFFICIAL DOCUMENTS OR OTHER SIMILAR DOCUMENTS

(1) IMPERSONATING AS A PUBLIC OFFICIAL

- This indicates cases in which the misrepresentation results from the 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 through wrongful uttering of an official document, the offense is not to be treated as a multiple offense but only as a sentencing factor.

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

- This indicates cases in which 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 SENTENCING FACTORS

01 | DETERMINING THE SENTENCING RANGE

- When determining the appropriate sentencing range, the court must consider only the special sentencing determinants.
- However, in cases involving more than two special sentencing determinants, the applicable sentencing range is adjusted after assessing the factors as set forth below:
 - ① The same number of conduct factors shall be considered with greater significance than the actor or other factors.
 - ② The same number of conduct factors reciprocally, or the actor, or other factors reciprocally shall be treated as the same.
 - ③ If the sentencing range applicable cannot be determined by the aforementioned principles in ① and ②, the court is to decide the sentencing range by a comprehensive comparison and assessment based on the principles set forth in ① and ②.
- After an assessment, if a greater number of aggravating factors than the mitigating factors exist, then the aggravating zone is recommended when determining the sentencing range. If a greater number of mitigating factors exist, then a mitigating sentencing range is recommended. For other cases, the standard sentencing range is recommended.

02 | DETERMINING THE SENTENCE APPLICABLE

- In determining the sentence, the court should consider comprehensively both the general and special sentencing determinants that are within the sentencing range as assessed under above 1.

GENERAL APPLICATION PRINCIPLES

01 | SPECIAL ADJUSTMENTS TO THE SENTENCING RANGE

- ① When only two or more special aggravating factors apply, or the special sentencing determinant outnumber the special mitigating determinants by two or more, then increase the maximum level of the recommended sentencing range up to $\frac{1}{2}$.
- ② When only two or more special mitigating factors apply, or the special sentencing determinant outnumber the special aggravating determinants by two or more, then reduce the minimum level of the recommended sentencing range down to $\frac{1}{2}$.

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

- When the sentencing range under this guideline conflicts with the range determined according to the aggravation and mitigation of the applicable law, the sentencing range prescribed by the applicable law shall govern.

03 | APPLICATION OF STATUTORY MITIGATING FACTORS AS DISCRETIONARY

- When the court declines to apply a permissive mitigating factor under applicable law as listed in this guideline's sentencing table, the factor shall be treated as a discretionary mitigating factor.

GUIDELINES ON SENTENCING MULTIPLE OFFENSES

01 | APPLICABLE SCOPE

- This section applies to concurrent crimes prescribed in the first part of Article 37 of the Criminal Act. However, when concurrent crimes under the first part of Article 37 of the Criminal Act involve an offense set forth in the sentencing guidelines, as well as an offense the sentencing guidelines do not cover, then the minimum level should be the minimum of the sentencing range of the offense that is set forth in these sentencing guidelines

02 | DETERMINING THE BASE OFFENSE

- The “base offense” indicates the most severe offense that results after selecting the penalty and determining the statutory aggravation and mitigation. However, in cases in which the maximum sentencing range is lower than that of the maximum sentencing range of the other offense as set forth in this guideline, the offense resulting in the concurrent crime becomes the base offense.

03 | CALCULATING THE SENTENCING RANGE

- To calculate the sentence of an offender convicted of multiple offenses that is not treated as a single offense under this guideline, the court shall apply the following principles:
 - ① In setting the sentencing range for an offender convicted of two offenses, the sentencing range should be the total sum of the maximum sentencing range of the base offense and the $\frac{1}{2}$ of the maximum sentencing range of the second offense.



- ② In setting the sentencing range for an offender convicted of three or more offenses, the sentencing range should be the total sum of the following: (1) of the maximum sentencing range of the base offense, sum of $\frac{1}{2}$ of the maximum sentencing range of the offense with the highest sentencing range, and (2) $\frac{1}{3}$ of the maximum sentencing range of the remaining offense with the second-highest sentencing range.
- ③ For cases where the minimum sentencing range of the other offense is higher than that of the base offense, the minimum sentencing range resulting from the multiple offense should be the minimum sentencing range of the other offense.
 - * When the offender who forges, alters, or falsifies official documents commits offenses of uttering such documents, the offense is not treated as a multiple offenses but only as a sentencing factor.

PART B — GUIDELINE ON SUSPENDING A SENTENCE

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Consideration Factor	<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"> • The motive or other matters for engaging in the offense can be taken into consideration • Offense failed to cause social damage, or the social and economic harm caused are insignificant • Expresses penitence (including voluntary surrender or confessions, whistleblowing, and the like) • No prior criminal history
General Consideration Factor	<ul style="list-style-type: none"> • Two or more criminal history on the suspension of sentence or for a greater offense • Active participation as an accomplice • Destroying evidence or attempting to conceal evidence after the commission of the offense • Lack of social ties • Absence of remorse • Absence of efforts to reverse the harm 	<ul style="list-style-type: none"> • Offender’s passive participation as an accomplice • Strongly established social ties • No criminal history of the 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)



DEFINITION OF FACTORS TO CONSIDER IN SUSPENDING A SENTENCE

- In cases in which the factors to consider in suspending a sentence 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 that involve a suspension of the sentence, the prior criminal history is calculated from the date the defendant's suspension of the sentence was affirmed until the date of the commission of the offense. In cases that impose imprisonment, the prior criminal history is calculated from the final date the sentence was completed until the date the offense was committed.

ASSESSING PRINCIPLES APPLICABLE TO THE FACTORS TO CONSIDER IN SUSPENDING A SENTENCE

- In deciding whether the suspension of a sentence is appropriate in cases in which imprisonment is imposed, the court should give the primary consideration factor greater importance than the general consideration factors. The following principles should be considered:
 - ① In cases in which only two or more primary affirmative factors exist or when the primary affirmative factors outnumber the major adverse factors by two or more, it is recommended to suspend the sentence.
 - ② In cases in which two or more primary adverse factors exist or when the primary adverse factors outnumber the primary affirmative factor by two or more, imprisonment is recommended.
 - ③ In cases in which ① or ② apply, but the difference between the number of general adverse (affirmative) factors and general affirmative (adverse) factors is greater than the difference between the number of primary affirmative (adverse) factors and primary adverse (affirmative) factors, or in cases other than ① or ②, the court shall decide whether to suspend the sentence after comparing and assessing the factors listed under the suspension of sentence section comprehensively.