CHAPTER 4

Crimes Related to Official Documents

- Promulgated on March 21, 2011. Effective on July 1, 2011.
- Amended on April 24, 2023. Effective on July 1, 2023.

This guideline applies to adult offenders (nineteen years of age or older) who committed any offenses of Counterfeit or Alteration of Official Document, etc. (Criminal Act, Article 225), Drafting of Official Document by Assuming False Capacity (Criminal Act, Article 226), Preparation, etc. of False Public Document (Criminal Act, Article 227), False Preparation or Alteration of Public Electromagnetic Records (Criminal Act, Article 227-2), Untrue Entry in Officially Authenticated Original Deed (Criminal Act, Article 228, paragraph 1), Uttering of Falsified Public Document, etc. (Criminal Act, Article 229), and Unlawful Uttering of Official Document Etc. (Criminal Act, Article 230).

PART A

TYPES OF OFFENSES AND SENTENCING RANGE

1 COUNTERFEIT (FORGERY) · ALTERATION OF OFFICIAL DOCUMENT, ETC.

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Non-commercial · Non-organizational	4 mos. ~ 1 yr.	8 mos. ~ 2 yrs.	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 Factor	Conduct	• Cases with special extenuating circumstances concerning the offender's participation in, or motives for the offense • No social harm occurred as the purpose of the offense was not achieved	• 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) • Counterfeiting (forgery) · altering multiple documents repeatedly • Serious social and economic harm resulting from the offense • Instigating the subordinate to commit the offense
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities	• Same-offense recidivism within the statutory recidivism period (includes offenses related to private documents)
General Sentencing Factor	Conduct	• Minor 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	• Offender made requests to professionals engaging in counterfeiting (forgery) or brokers of such activities • Those who committed counterfeiting (forgery) · altering of documents, utter the falsified documents

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
			• Counterfeiting (forgery) · alteration of important documents involving high public confidence such as written judgments or passports (However, this excludes offenses that caused serious social and economic harm) • Use of professional Counterfeiting (forgery) or altering devices (such as color printers, scanners, and other similar devices)
	Offender /Etc.	• No prior criminal convictions • Sincere remorse	• Different-offense recidivism within the statutory recidivism period. Prior convictions for the same type of offense, which do not constitute statutory recidivism (includes offenses related to private documents)

2 PREPARATION · AMENDMENT OF FALSE OFFICIAL DOCUMENT

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Passive Purpose	- 8 mos.	4 mos. - 10 mos.	8 mos. - 1 yr. 6 mos.
2	Active Purpose	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 Factor	Conduct	• Cases with special extenuating circumstances concerning the offender's participation in, or motives for the offense • Profits gained from the offense or social and economic damages caused are insignificant	• Offender participated in organized crime • Serious social and economic harm resulting from the offense • Instigating the subordinate to commit the offense
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities	• Prior convictions or disciplinary actions for same-offenses within five years (includes offenses related to private documents) • Deliberate concealment of profits gained from the offense or obstructing recovery of damages

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Factor	Conduct	• Minor participation	• Those who prepared or amended false official documents, or utter such documents
	Offender /Etc.	• Faithful long-term serving of duties without disciplinary actions (record of awards, and others may be considered) • Sincere remorse	• Post-offense evidence tampering or attempting to destroy or conceal evidence • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same type of offense, which do not constitute statutory recidivism (includes offenses related to private documents)

3 UNLAWFUL UTTERING OF OFFICIAL DOCUMENT, ETC.

CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
Unlawful uttering of official document, Etc.	- 6 mos.	4 mos. - 10 mos.	6 mos. - 1 yr. 6 mos.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Offense committed for basic living expenses	• When the purpose of the crime is achieved (In cases where the illegal gain is not minor) • Impersonating as a public official • Instigating the subordinate to commit the offense
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative agencies	• Same-offense recidivism within the statutory recidivism period
General Sentencing Factor	Conduct	• No social harm occurred as the purpose of the offense was not achieved	• Obtaining official documents by unlawful means (excludes cases where the act of obtaining the document constitutes a separate crime)
	Offender /Etc.	• No prior criminal convictions • Cases where expatriation is expected • Sincere remorse	• Different-offense recidivism within the statutory recidivism period. Prior convictions for same-offenses which do not constitute a repeat offense within the statutory recidivism period (includes offenses related to private documents)

DEFINITION OF OFFENSES

1 COUNTERFEIT (FORGERY) · ALTERATION OF OFFICIAL DOCUMENT, ETC.

▷ This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law (hereinafter the same).

ELEMENTS OF OFFENSE	APPLICABLE LAW
Counterfeit (Forging) · Alteration of Official Documents, Etc. and uttering the documents thereof	Criminal Act, Article 225, Article 229
Drafting of Official Document by Assuming False Capacity and other similar documents and uttering the documents thereof	Criminal Act, Article 226, Article 229
False Preparation or Alteration of Public Electromagnetic Records and uttering documents thereof	Criminal Act, Article 227-2, Article 229
Untrue Entry in Officially Authenticated Original Deed and uttering documents thereof	Criminal Act, Article 228, paragraph 1, Article 229

1. TYPE 1 — NON-COMMERCIAL OR NON-ORGANIZATIONAL OFFENSE: COUNTERFEITING (FORGERY) · ALTERING DOCUMENTS THAT ARE NON-COMMERCIAL OR NON-ORGANIZATIONAL BASED

- Acts of counterfeiting (forgery) or altering that do not fall within Type 2.

2. TYPE 2 — COMMERCIAL OR ORGANIZATIONAL OFFENSE: COUNTERFEITING (FORGERY) · ALTERING DOCUMENTS THAT ARE COMMERCIAL OR ORGANIZATION BASED

- "Commercial offense" indicates cases where the offender engages in acts of counterfeiting (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.

2 PREPARATION · AMENDMENT OF FALSE OFFICIAL DOCUMENT

ELEMENTS OF OFFENSE	APPLICABLE LAW
Prepare · Amend False Official Documents, or utter such documents	Criminal Act, Article 227, Article 229

1. TYPE 1 — OFFENSE WITH PASSIVE PURPOSE : 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 — OFFENSE WITH 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.

3 UNLAWFUL UTTERING OF OFFICIAL DOCUMENT, ETC.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Unlawful uttering of official documents or other similar documents	Criminal Act, Article 230

DEFINITION OF SENTENCING FACTORS

1 COUNTERFEIT (FORGERY) · ALTERATION OF OFFICIAL DOCUMENT, ETC.[1)]

1. CASES WITH SPECIAL EXTENUATING CIRCUMSTANCES CONCERNING THE OFFENDER'S PARTICIPATION IN, OR MOTIVES FOR, THE OFFENSE

- This applies where one or more of the following are present:
  - The offender participated in the crime under coercion or threats by another person (excluding cases that fall under Article 12 of the Criminal Act).
  - The offender merely agreed to participate in the crime and neither directed nor directly took part in carrying out the offense.
  - Crime committed by mere curiosity or ostentation.
  - The offender did not intend to obtain illegal gain, or intended only to obtain a minor illegal gain
  - Other cases with comparable factors

2. NO SOCIAL HARM OCCURRED AS THE PURPOSE OF THE OFFENSE WAS NOT ACHIEVED

- 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.

[1)] Sentencing factors with the same designation that apply to Preparation, etc. of False Public Document and Unlawful Uttering of Official Document, Etc. have the same definition unless defined otherwise.

4. SERIOUS SOCIAL AND ECONOMIC HARM RESULTING FROM THE OFFENSE

- This indicates cases in which the offense caused enormous economic losses, the offender acquired large amounts of benefit, the offense involved numerous victims, or other similar circumstances resulted in serious social and economic disturbance and severe damage.

5. MINOR PARTICIPATION

- This refers to 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. ONLY SMALL PARTS OF THE DOCUMENT WERE ALTERED COMPARED TO THE ENTIRE DOCUMENT

- This means the part of the document that was altered did not involve affecting significant legal relations (for example, mere modification of dates unrelated to the extinction of rights).

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

- This means the offender, who is not a professional forger or involved in such organizations, requested to commit the offense 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. COUNTERFEITING (FORGERY) · 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).

9. SINCERE REMORSE

- This indicates cases in which, after examining and assessing the specific circumstances surrounding the offender's admission of the offense and any voluntary efforts made toward victim restitution and/or the prevention of re-offending, the offender is deemed to show genuine remorse for the offense.

10. NO PRIOR CRIMINAL CONVICTIONS

- This indicates cases in which, the defendant has never committed a crime even once prior to the relevant offense. However, this excludes cases where crimes were committed repeatedly over a prolonged period.

2 PREPARATION · AMENDMENT OF FALSE OFFICIAL DOCUMENT

1. CASES WITH SPECIAL EXTENUATING CIRCUMSTANCES CONCERNING THE OFFENDER'S PARTICIPATION IN, OR MOTIVES FOR THE OFFENSE

- This applies where one or more of the following are present:
  - The offender participated in the crime under coercion or threats by another person (excluding cases that fall under Article 12 of the Criminal Act).
  - The offender merely agreed to participate in the crime and neither directed nor directly took part in carrying out the offense.
  - Crime committed by mere curiosity or ostentation.
  - The offender did not intend to obtain illegal gain, or intended only to obtain a minor illegal gain
  - 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 offense of falsifying and/or altering documents by participating in an organized scheme involving an outside criminal organization.

3. SERIOUS SOCIAL AND ECONOMIC HARM RESULTING FROM THE OFFENSE

- This applies where one or more of the following are present:
  - 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 granting of an official license, thereby causing considerable harm
  - Other cases with comparable factors

3 UNLAWFUL UTTERING OF OFFICIAL DOCUMENT, ETC.

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 unlawful uttering of an official document, the offense is not treated as a separate crime constituting multiple offenses, but is considered only as a sentencing factor.

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

- This refers to cases in which the unlawful acquisition of an official document intended for uttering does not constitute a separate offense subject to separate punishment (e.g., exemption from punishment for offenses among relatives, cases involving an unspecified victim, etc.).

PRINCIPLES APPLICABLE TO SENTENCING FACTORS

1 DETERMINING THE SENTENCING RANGE

- When determining the appropriate sentencing range, judges must consider only the Special Sentencing Factors.
- However, where multiple Special Sentencing Factors are present, the applicable sentencing range shall be determined after assessing the factors in accordance with the following principles:
  - ❶ Greater weight is accorded to Conduct Factors than to Offender/Etc. Factors of equal number.
  - ❷ Conduct Factors *inter se*, and Offender/Etc. Factors *inter se*, shall be treated as equivalent.
  - ❸ If the sentencing range applicable cannot be determined by the aforementioned principles in ❶ and ❷, judges are to decide the sentencing range by a comprehensive comparison and assessment of Special Sentencing Factors based on the principles set forth in ❶ and ❷.
- After the assessment of sentencing factors, where aggravating factors outweigh mitigating factors, the aggravating sentencing range is recommended; where mitigating factors outweigh aggravating factors, the mitigating sentencing range is recommended; and in all other cases, the standard sentencing range is recommended.

2 DETERMINING THE SENTENCE TO BE IMPOSED

- The sentence to be imposed shall be determined within the sentencing range established under paragraph 1 above, by comprehensively taking into account both General Sentencing Factors and Special Sentencing Factors.

GENERAL APPLICATION PRINCIPLES

1 SPECIAL ADJUSTMENTS TO THE RECOMMENDED SENTENCING RANGE

❶ After the assessment of Special Sentencing Factors, if a case falls within the Aggravating Sentencing Range and either i) two or more Special Aggravating Factors exist alone, or ii) Special Aggravating Factors outnumber Special Mitigating Factors by two or more, the upper limit of the recommended sentencing range may be increased by up to 1/2.

❷ After the assessment of Special Sentencing Factors, if a case falls within the Mitigating Sentencing Range and either i) two or more Special Mitigating Factors exist alone, or ii) Special Mitigating Factors outnumber Special Aggravating Factors by two or more, the lower limit of the recommended sentencing range may be reduced by up to 1/2.

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

- Where the sentencing range recommended under this guideline conflicts with the statutory applicable aggravated/mitigated sentencing range, the upper or lower limit of the applicable sentencing range by law shall govern.

3 APPLICATION OF DISCRETIONARY MITIGATING FACTORS BY LAW

- Where a judge declines to apply discretionary statutory mitigating factors listed in the Sentencing Factor Table of this guideline, such factors shall be considered as extenuating circumstances among mitigating factors.

GUIDELINES ON SENTENCING MULTIPLE OFFENSES

1 APPLICABLE RANGE

- 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 include both an offense set forth in the sentencing guidelines and an offense not covered by the sentencing guidelines, then the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

2 DETERMINING THE BASE OFFENSE

- The "base offense" refers to the offense subject to the most severe punishment after selecting the type of punishment and applying any statutory aggravation and/or mitigation thereto. However, where the upper end of the sentencing range under the sentencing guidelines for an offense covered by this chapter is lower than the upper end of the sentencing range under the sentencing guidelines for the other concurrent offense, the other concurrent offense shall become the base offense.

3 DETERMINING THE SENTENCING RANGE FOR THE CONCURRENT MULTIPLE OFFENSES

- Except for concurrent offenses that are treated as a single offense under the sentencing guidelines, the following method of aggravation for multiple offenses shall apply:

  ❶ For multiple offenses involving two offenses, the upper end of the sentencing range shall be determined by adding 1/2 of the upper end of the sentencing range of the other offense to the upper end of the sentencing range of the base offense.

  ❷ For multiple offenses involving three or more offenses, the upper end of the sentencing range shall be determined by adding the following three figures: (1) the upper end of the sentencing range of the base offense, (2) 1/2 of the upper end of the sentencing range of the offense with the highest sentencing range among the other offenses, and (3) 1/3 of the upper end of the sentencing range of the offense with the second highest sentencing range among the other offenses.

  ❸ For multiple offenses where the lower end of the sentencing range of the other offense is higher than the lower end of the sentencing range of the base offense, the lower end of the sentencing range after applying the method of aggravation for multiple offenses shall be the lower end of the sentencing range of the other offense.

  ※ When the offender who Counterfeits (Forges), Alters, or Prepares Etc. of False Official Documents commits offenses of uttering such documents, the uttering offense is not treated as a separate crime constituting multiple offenses, but is considered only as a sentencing factor.

PART B

GUIDELINE ON SUSPENDING A SENTENCE

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Circumstances	• Prior convictions for the same-offense (within five years) or disciplinary actions for the same-offense • Counterfeit (Forgery) · 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	• Cases with special extenuating circumstances concerning the offender's participation in, or motives for the offense • Offense failed to cause social damage, or the social and economic harm caused are insignificant • Expresses substantial penitence (including voluntary surrender, confessions, whistle-blowing, and the like) • No prior criminal convictions
General Circumstances	• Two or more prior convictions resulting in a suspended sentence of imprisonment without labor or heavier punishment • Leading role as a co-offender • Post-offense evidence tampering or attempting to destroy or conceal evidence • Lack of social/family ties • Absence of sincere remorse • Absence of efforts to reverse the harm	• Minor participation as a co-offender • Stable social/family ties • No prior convictions resulting in a suspended sentence of imprisonment without labor, or heavier punishment • The offender's physical condition is severely impaired • Cases where detaining the offender would impose excessive hardship on dependent family members • Sincere remorse • Faithful long-term serving of duties without disciplinary actions (Preparation · Amendment of False Official Documents, Type 2)

DEFINITIONS OF CIRCUMSTANCES TO CONSIDER WHEN SUSPENDING A SENTENCE

- For identical factors in both Sentencing Factors and the Circumstances for Suspending a Sentence, refer to the definitions set forth in the Definition of Sentencing Factors.
- Calculation of the Period of Prior Criminal Convictions
  - For cases where a suspended sentence of imprisonment or a fine was imposed, the period of a prior conviction is calculated from the date on which the judgment became final to the date of the commission of the offense.
  - For cases where a sentence of imprisonment was executed, the period of a prior conviction is calculated from the date on which the sentence was fully served to the date of the commission of the offense.

PRINCIPLES APPLICABLE TO CIRCUMSTANCES WHEN SUSPENDING A SENTENCE

- When the recommended sentence is imprisonment with labor and judges decide to suspend execution of the sentence, they must give greater weight to the Primary Circumstances than to the General Circumstances, and the following principles should be considered:
  ❶ When two or more Primary Affirmative Circumstances exist alone, or when Primary Affirmative Circumstances outnumber Primary Adverse Circumstances by two or more, it is recommended to suspend the sentence.
  ❷ When two or more Primary Adverse Circumstances exist alone, or when Primary Adverse Circumstances outnumber Primary Affirmative Circumstances by two or more, imprisonment is recommended.
  ❸ In cases in which ❶ or ❷ apply, but the difference between the number of General Adverse (Affirmative) Circumstances and General Affirmative (Adverse) Circumstances is greater than the difference between the number of Primary Affirmative (Adverse) Circumstances and Primary Adverse (Affirmative) Circumstances, or in cases other than ❶ or ❷, the judges shall decide whether to suspend the sentence after comparing and assessing all the Circumstances comprehensively.