ACT ON EQUAL EMPLOYMENT AND SUPPORT FOR WORK–FAMILY RECONCILIATION
Act No. 3989, Dec. 4, 1987

Amended by Act No. 7564, May 31, 2005
Act No. 7822, Dec. 30, 2005
Act No. 8372, Apr. 11, 2007
Act No. 8781, Dec. 21, 2007
Act No. 9792, Oct. 9, 2009
Act No. 9795 Oct. 9, 2009

CHAPTER I

General Provisions

Article 1 (Purpose)
The purpose of this Act is to realize gender equality in employment in compliance with the idea of equality in the Constitution of the Republic of Korea by ensuring equal opportunity and treatment for men and women in employment, while protecting maternity and promoting women employment, as well as to contribute to improve the quality of life for all the people by providing support for the reconciliation of work and family life for workers.

<Wholly Amended by Act No. 8781, Dec. 21, 2007>
<Enforcement Date Jun. 22, 2008>

Article 2 (Definition)
The definition of terms to be used in this Act shall be as follows:
(1) The term “discrimination” means that an employer applies different conditions of employment or work to workers, or takes any other disadvantageous measures against them without any reasonable reasons on account of sex, marriage, status within family, pregnancy, or child–birth, etc. (including the case where even if an employer applies the same hiring or working conditions to males and females, if the number of males or females who can meet the conditions is
considerably less than that of the opposite sex, if this causes a disadvantageous result to either sex, and if the conditions applied can not be justified as fair ones, it shall constitute a discrimination): Provided. That excluding the case corresponding to any one of the following items:

(a) In case a worker of a specific sex is inevitably needed in view of the character of a job; and
(b) In case measures are taken to protect the maternity of working women in their pregnancy, childbirth, child-feeding, etc.; and
(c) Other cases where taking an affirmative action measure under this Act or other Acts.

(2) The "Sexual Harassment in the workplace" refers to a situation where an employer, a senior, or a worker makes other worker feel sexually humiliated or offended by using sexually charged behavior or language using their higher status at work or in relation to work, or gives disadvantages in employment on account of no-response to the sexual gesture or other requests.

(3) The "affirmative action measure" means a measure to favorably treat the specific sex temporarily in order to measure to get rid of the existing employment discrimination between men and women or to promote the employment equality.

(4) The "worker" means a person employed by an employer and a person having the intention to work.

Article 3 (Scope of Application)

(1) This Act shall apply to all business or workplace using workers (hereinafter referred to as "business"): Provided that the business as prescribed by Presidential Decree shall be exempt from the application of part or all of this Act.

(2) Unless otherwise provided for specially by other laws regarding the realization of gender equality in employment and reconciliation of work and family life, this Act shall apply.
Article 4 (Responsibility of the State and Local Governments)

(1) The State and local governments shall promote the people’s interests and understanding to realize the purposes of this Act, support skills development and employment promotion for women, and make efforts necessary to eliminate all elements undermining the realization of gender equality in employment.

(2) The State and local governments shall support workers and employers’ efforts to reconcile work and family life, and make efforts to raise financial resources and prepare conditions necessary for the reconciliation of work and family life.

<Wholly Amended by Act No. 8781, Dec. 21, 2007>
<Enforcement Date Jun. 22, 2008>

Article 5 (Responsibility of Workers and Employers)

(1) Workers shall make efforts to create workplace culture, where men and women are equally respected based on mutual understanding.

(2) Employers shall make efforts to create working environment where men and women workers can show their ability in equal conditions by improving practices and institutions undermining the realization of gender equality in employment.

(3) Employers shall make efforts to improve practices and institutions in the workplace undermining the reconciliation of work and family life, and create working environment that can support the reconciliation of work and family life.

<Wholly Amended by Act No. 8781, Dec. 21, 2007>
<Enforcement Date Jun. 22, 2008>

Article 6 (Establishment of Measures, etc.)

(1) The Minister of Labor shall establish and carry out the measures in each subparagraph below to realize gender equality in employment and the reconciliation of work and family life:

- Public relations intended to raise awareness on gender equality in employment;
- Selection of and administrative and financial support for companies having exemplary practices of gender equality in employment (including the excellent
companies in affirmative action measure under the provisions of Article 17-4);
3. Set-up and implementation of a campaign period for gender equality in employment;
4. Survey and research to eliminate gender discrimination and expand employment of women;
5. Improvement of institutions and administrative and financial support for maternity protection and the reconciliation of work and family life; and
6. Other measures necessary to realize equal employment and the reconciliation of work and family life

(2) The Minister of Labor shall make efforts to reflect opinions of the persons concerned in setting up and carrying out the measures in paragraph (1), and if it is deemed necessary, he may ask for cooperation from the heads of competent administrative bodies, local governments and public organizations.

<Wholly Amended by Act No. 8781, Dec. 21, 2007>
<Enforcement Date Jun. 22, 2008>

Article 6-2 (Establishment of a Basic Plan)
(1) The Minister of Labor shall establish a basic plan on the realization of equal employment and the reconciliation of work and family life (hereinafter referred to as “basic plan”).
(2) The basic plan as referred to in paragraph (1) shall include the following items:
1. Matters on women employment promotion;
2. Matters on ensuring equal opportunity and treatment for men and women;
3. Matters on settlement of practices of paying equal wages for the work of equal value:
4. Matters on skills development for women;
5. Matters on maternity protection of women workers;
6. Matters on reconciliation of work and family life;
7. Matters on installation and operation of welfare facilities for women workers; and
8. Other matters considered by the Minister of Labor to be necessary for realization of gender equality in employment and reconciliation of work and family life.

<Wholly Amended by Act No. 8781, Dec. 21, 2007>
<Enforcement Date Jun. 22, 2008>
Article 6-3 (Conducting Research on Actual Conditions)

(1) The Minister of Labor shall regularly conduct research to know the current state on elimination of gender discrimination, maternity protection, and reconciliation of work and family life in the workplace.

(2) Matters necessary for the survey according to paragraph (1), including the target group, period, contents, etc., shall be determined by the Ordinance of the Ministry of Labor.

<Wholly Amended by Act No. 8781, Dec. 21, 2007>
<Enforcement Date Jun. 22, 2008>

CHAPTER II

Ensuring Equal Opportunity and Treatment, etc. for Men and Women in Employment

SECTION I

Equal Opportunity and Treatment for Men and Women

Article 7 (Recruitment and Hiring)

(1) An employer shall not discriminate against men or women based on gender in recruitment and hiring.

(2) When recruiting and hiring female workers, an employer shall not present nor demand certain physical conditions such as appearance, height, weight, etc., unmarried status, and other conditions determined by the Ordinance of the Ministry of Labor which are not required to perform a certain job.

<Wholly Amended by Act No. 8781, Dec. 21, 2007>
<Enforcement Date Jun. 22, 2008>

Article 8 (Wages)

(1) An employer shall pay the equal wage for the work of equal value in the same business.

(2) The criteria for the work of equal value shall be the
skills, efforts, responsibility and working conditions, etc., required to perform the work. And in setting the criteria, an employer shall listen to opinions of a member representing employees at the Labor–Management Council as prescribed in Article 25.<Amended by Act No. 7822, Dec. 30, 2005> <Enforcement Date Mar. 31, 2006>

(3) A separate business established by an employer for the purpose of wage discrimination shall be considered the same business.


Article 9 (Money and Goods, etc. other than Wages)
An employer shall not discriminate against men or women in managing welfare programs such as payment of money and goods or loans other than wages in a bid to support workers lives. <Wholly Amended by Act No. 8781, Dec. 21, 2007> <Enforcement Date Jun. 22, 2008>

Article 10 (Training, Deployment and Promotion)
An employer shall not discriminate against men or women in training, posting and promotion.<Wholly Amended by Act No. 8781, Dec. 21, 2007> <Enforcement Date Jun. 22, 2008>

Article 11 (Retirement Age, Retirement and Dismissal)
(1) An employer shall not discriminate against men or women with respect to retirement age, retirement and dismissal.

(2) An employer shall not enter into a labor contract stipulating marriage, pregnancy or child–birth of a woman worker as a cause of retirement.<Wholly Amended by Act No. 8781, Dec. 21, 2007> <Enforcement Date Jun. 22, 2008>

SECTION II

Prohibition and Prevention of Sexual Harassment in the Workplace

Article 12 (Prohibition of Sexual Harassment in the Workplace)
Employers, senior workers or workers shall not engage in Sexual Harassment in the workplace.
Article 13 (Education To Prevent Sexual Harassment in the Workplace)

(1) An employer shall conduct education in order to prevent Sexual Harassment in the workplace (hereinafter referred to as the "education to prevent sexual harassment") and to create a safe working environment for workers.

(2) Matters necessary for the contents, methods, frequencies, etc. of education to prevention sexual harassment shall be determined by the Presidential Decree.

Article 13-2 (Entrustment of Education To Prevent Sexual Harassment in the Workplace)

(1) The employer may conduct the education to prevent sexual harassment by entrusting it to the institution designated by the Minister of Labor (hereinafter referred to as the "education institution for sexual harassment prevention").

(2) The education institution for sexual harassment prevention shall be designated among the institutions provided by the Ordinance of the Ministry of Labor, and it shall have one or more of the lecturers provided by the Ordinance of the Ministry of Labor.

(3) The education institution for sexual harassment prevention shall conduct the education under the conditions provided by the Ordinance of the Ministry of Labor, keep the data relating to conduct the education, including education completion certificate or the roster of persons completing the education, etc., and deliver such data to the employer or an educatee.

(4) The Minister of Labor may cancel the relevant designation in case where the education institution for sexual harassment prevention falls under any of the following subparagraphs:

1. Where the designation has been obtained by falsity and other unlawful methods:

2. Where the instructor under the provision of paragraph (2) has not been placed continuously for 6 months or longer without any justifiable reasons.
Article 14 (Measures to be taken in case of Sexual Harassment in the Workplace)

(1) An employer shall take a disciplinary measure and other equivalent measures against a sexual harasser without delay upon finding Sexual Harassment in the workplace.

(2) An employer shall not take unfavorable measures such as dismissal or other disadvantageous measures against a worker who was affected sexual harassment and a worker who has raised the relevant protest.

Article 14-2 (Prevention of Sexual Harassment by Clients, etc.)

(1) If a worker whose work is closely related to clients, etc., has felt sexually humiliated or offended by a verbal or physical conduct of sexual nature while performing his/her work and requested to resolve the grievance, the worker shall make efforts to take possible measures, such as changing the place of work, relocating duties, etc.

(2) An employer shall not dismiss or take other disadvantageous measures against a worker on the ground that he/she claims to have been victimized as prescribed in paragraph (1) or has refused sexual demands, etc., from a client, etc.

SECTION III

Skills Development and Employment Promotion for Women

Article 15 (Vocational Guidance)

Employment Security Office prescribed in subparagraph 1 of Article 2-2 of the Employment Security Act shall take measures necessary for vocational guidance, such as offering employment information and survey and research materials on occupation in a bid to help women choose their job according to their aptitude, competency, experiences and skills, and make smooth adaptations to their jobs. <Amended by Act No. 9795, Oct. 9, 2009>
Article 16 (Skills Development)

The State, a local government and an employer shall guarantee the equal opportunity to men and women in all forms of skills development training in a bid to develop and improve women’s vocational competency.

Article 17 (Employment Promotion for Women)

(1) The Minister of Labor may provide non-profit corporations and organizations which establish and operate facilities to promote women’s employment with a subsidy for all or part of the necessary costs.

(2) The Minister of Labor may provide an employer who conduct a project for women employment promotion, and an employer who intends to improve employment environment in the workplace, such as establishing a women workers’ lounge, breast-feeding facilities, etc. with a subsidy for all or part of the necessary costs.

SECTION IV

Affirmative Action Measure

< Newly inserted by Act No. 7822, Dec. 30, 2005>
< Enforcement Date Mar. 1, 2006>

Article 17-2 (Skills Development and Employment Promotion Support for Career-Break Women)

(1) The Minister of Labor shall select occupations with employment prospect and develop specialized training and employment promotion programs for career-break women who leave their company on the ground of pregnancy, childbirth, childcare, etc. but have an intention to be reemployed (hereinafter referred to as "career-break women").

(2) The Minister of Labor shall provide vocational information, vocational training information, etc. for career-break women through Employment Security Office prescribed in subparagraph 1 of Article 2–2 of the Employment Security Act, and offer services, including specialized vocational guidance, vocational counseling, etc. to them. <Amended by Act No. 9795, Oct. 9, 2009>
Article 17–3 (Establishment, Submission, etc. of Implementation Plan of Affirmative Action Measure)

(1) The Minister of Labor may request the employer falling any of the following subparagraphs whose employed female workers’ ratio by occupation is short of employment criteria provided by industry and by scale in the Ordinance of the Ministry of Labor, to establish and submit an implementation plan of affirmative action measure to improve discriminative employment practice and system (hereinafter referred to as the “implementation plan”). In this case, the relevant employer shall submit an implementation plan:

1. Head of public agencies and organizations prescribed by the Presidential Decree; and
2. Employer of establishment hiring workers more than the scale prescribed by the Presidential Decree.

(2) The employer falling under any of subparagraphs of paragraph (1) shall submit the current state of male and female workers by occupation and by position to the Minister of Labor.

(3) The employer not falling under any of subparagraphs of paragraph (1) who intends to take an affirmative action measure may prepare the current state of male and female workers by occupation and an implementation plan, and submit them to the Minister of Labor.

(4) The Minister of Labor shall examine the implementation plan submitted under the provisions of paragraphs (1) and (3), and when the relevant details are not clear or the efforts to improve discriminative employment practice are insufficient, and it is deemed inappropriate as implementation plan, he/she may request the relevant employer to supplement the implementation plan.

(5) Matters necessary for the implementation plan under the provisions of paragraphs (1) and (2), and the items in the current state of male and female workers, time and procedures for submission, etc. shall be determined by the Ordinance of the Ministry of Labor.
Article 17–4 (Evaluation, Support, etc. of Implementation Results)

(1) The person who has submitted an implementation plan under the provisions of Article 17–3 (1) and (3) shall submit the implementation results to the Minister of Labor.

(2) The Minister of Labor shall evaluate the implementation results submitted under the provisions of paragraph (1), and notify the employer of the relevant outcome.

(3) The Minister of Labor may commend the enterprise of excellent implementation results according to the evaluation under the provisions of paragraph (2) (hereinafter referred to as the "excellent enterprise of active employment improvement measure").

(4) The State and local governments may render administrative and financial support to excellent enterprises of active employment improvement measure.

(5) The Minister of Labor may urge the employer of poor implementation results according to the evaluation result under the provision of paragraph (2) to carry out the implementation plan.

(6) The Minister of Labor may entrust the evaluation duty under the provisions of paragraph (2) to institutions or organizations prescribed by the Presidential Decree.

(7) Matters necessary for items of the implementation results under the provisions of paragraph (1), time and procedure of submission, and notification procedure for evaluation results under the provisions of paragraph (2), shall be determined by the Ordinance of the Ministry of Labor.

Article 17–5 (Notice of Implementation Plan, etc.)

The employer who has submitted an implementation plan under the provisions of Article 17–3(1) shall take necessary measures, including making notice of implementation plan and the implementation results under the provisions of Article 17–4(1) so as to make the workers peruse them.

Article 17–6 (Cooperation on Affirmative Action Measures)

The Minister of Labor may request the heads of related administrative agencies to take necessary measures for the correction or prevention of discrimination in case where
he/she admits that they are necessary for efficient implementation of affirmative action measures. In this case, the heads of related administrative agencies shall comply with them unless they have any special reasons.

**Article 17-7 (Deliberation on Important Matters concerning Active Affirmative Action Measures)**

Any of the following matters concerning affirmative action measures shall be subject to deliberation by the Employment Policy Council under Article 10 of the Framework Act on Employment Policy:

1. Matters concerning criteria for employment of female workers under Article 17-3 (1);
2. Matters concerning the examination of implementation plans under Article 17-3 (4);
3. Matters concerning the evaluation of the implementation results of affirmative action measures under Article 17-4 (2);
4. Matters concerning commendation and support for enterprises excellent in taking affirmative action measures under Article 17-4 (3) and (4); and
5. Other matters referred by the chairman of the Employment Policy Council on affirmative action measures

*<This Article Wholly Amended by Act No. 9792, Oct. 9, 2009>*

**Article 17-8 (Survey and Research etc. of Affirmative Action Measures)**

(1) The Minister of Labor may perform the projects, including survey, research, education, publicity, etc. in order to efficiently perform the duties of affirmative action measures.

(2) The Minister of Labor may entrust a part of duties under the provisions of paragraph (1) to a person prescribed by the Presidential Decree, if he/she deems it necessary.
CHAPTER III

Maternity Protection

Article 18 (Support for Maternity Leave)

(1) The State shall provide those meeting certain conditions among the workers who took the maternity leave or miscarriage and stillbirth leave pursuant to Article 74 of the Labor Standards Act with the amount equivalent to the ordinary wages (hereinafter referred to as “maternity leave benefits, etc.”) for the leave period concerned.

(2) The maternity leave benefits, etc. paid under the provisions of paragraph (1) shall be considered to have been paid under the provisions of Article 74 (3) of the Labor Standards Act by an employer within the limit of the said amount.

(3) Expenses required for paying the maternity leave benefits, etc. under paragraph (1) may be borne by the finance and the social insurance under the Framework Act on Social Security.

(4) When a female worker intends to receive maternity leave benefits, etc., she shall actively cooperate in every procedure of drawing up, confirming, etc. the related documents.

(5) Matters necessary for the conditions of, and duration and procedure for payment of maternity leave benefits, etc. shall be determined separately by law.

Article 18-2 (Paternity Leave)

(1) If a worker requests leave for his spouse’s childbirth, the employer shall grant him three–day leave.

(2) A worker shall not be eligible to request the leave prescribed in paragraph (1), if thirty days or more have passed after his spouse’s childbirth.
CHAPTER III-2

Support for Work–Family Reconciliation

Article 19 (Childcare Leave)

(1) An employer shall grant childcare leave, if a worker with a nursing or infant aged less than three years asks for leave to take care of the infant or toddler (hereinafter referred to as "childcare leave"): Provided that this shall not apply in such cases as prescribed by the Presidential Decree.

(2) The duration of childcare leave shall be one year or less.

(3) An employer shall neither dismiss and give other unfavorable treatment to a worker on account of taking childcare leave as prescribed in paragraph (1), nor dismiss the concerned worker during the childcare leave period; Provided that this shall not apply when the employer is not able to continue his/her business.

(4) An employer shall allow an employee whose childcare leave ends as prescribed in paragraph (1) to return to the same work which the employee used to do before the childcare leave or to the work paying the equivalent level of wages. Also, the period of the childcare leave prescribed in paragraph (2) shall be included in continuous service period of the employee.

(5) Matters necessary for the application method, procedure, etc. of childcare leave shall be determined by the Presidential Decree.

Article 19-2 (Working Hour Reduction in Childcare Period)

(1) If a worker eligible to ask for childcare leave pursuant to Article 19 (1) requests working hour reduction (hereinafter referred to as "working hour reduction in childcare period") instead of childcare leave, the employer may allow working hour reduction.

(2) If an employer does not allow his/her worker to have working hour reduction in childcare period, he/she shall notify the worker of the reason in writing and consult with the worker about whether he/she can help the worker by granting childcare leave or taking other measures.
(3) If an employer allows his/her worker to have working hour reduction in childcare period pursuant to paragraph (1), the working hours per week after the reduction shall be 15 hours or more and not exceed 30 hours.

(4) The duration of working hour reduction in childcare period shall be less than one year.

(5) An employer shall not dismiss or give other disadvantageous treatment to the concerned worker on a count of working hour reduction in childcare period.

(6) After the duration of working hour reduction in childcare period is over, the employer shall allow the worker to return to the same work or the work offering the same level of wage before working hour reduction in childcare period.

(7) Matters necessary for the method, procedure, etc. of application for working hour reduction in childcare period shall be determined by the Presidential Decree.

Article 19-3 (Working Conditions, etc., of Working Hour Reduction in Childcare Period)

(1) An employer shall not make working conditions disadvantageously for a worker who has working hour reduction in childcare period pursuant to Article 19-2, on account of working hour reduction except a case is applied in proportion to working hours.

(2) As for a worker whose working hour has been reduced in childcare period pursuant to Article 19-2, working conditions (including working hours after working hour reduction in childcare period is over) shall be determined between the employer and the worker in writing.

(3) An employer shall not assign overtime work to a worker whose working hours are reduced during childcare period besides the reduced working hours: Provided that when the worker makes an explicit request, the employer may have the employee work overtime not exceeding 12 hours a week.
(4) When calculating the average wage of a worker whose working hours have been reduced during childcare period, in accordance with subparagraph 6 of Article 2 of the Labor Standards Act, the duration of working hour reduction during childcare period shall be excluded from the period for calculation of the worker's average wages.

Article 19-4 (Form of Using Childcare Leave and Working Hour Reduction during Childcare Period)

When a worker has childcare leave or working hour reduction during childcare leave according to Article 19 and 19-2, she may choose and use one of the methods in the following subparagraphs. In this case, whatever method will be used, the overall period shall not exceed one year:

1. One-time use of childcare leave;
2. One-time use of working hour reduction during childcare leave;
3. Divided use of childcare leave (one-time only);
4. Divided use of working hour reduction during childcare leave; and
5. One-time use of childcare leave and one-time use of working hour reduction during childcare leave

Article 19-5 (Other Measures to Support Childcare)

(1) An employer shall make efforts to take measures falling under any of the following subparagraphs with the aim of supporting the childcare of a worker who fosters a preschool-child:

1. Adjusting business opening and closing time;
2. Restricting overtime;
3. Adjusting working hours, including reducing working hours, flexible operation, etc.; and
4. Other measures necessary to support the childcare of the worker concerned

(2) When an employer takes measures stipulated in paragraph (1), the Minister of Labor may provide necessary support in consideration of employment effect, etc.

**Article 19-6 (Employer's Support for Return-to-work)**

An employer shall make efforts for a worker who is on childcare leave according to this Act in the worker’s skills development and enhancement, and provide support for a worker who completes maternity leave, childcare leave or working hour reduction during childcare period and returns to work to adjust to work.

**Article 20 (Support for Work-Family Reconciliation)**

(1) When an employer allows a worker childcare leave or working hour reduction during childcare period, the State may provide support for part of living costs of the worker concerned and part of employment retention costs of the employer concerned.

(2) The State may provide aid through tax and finance for an employer who introduces a measure to support the reconciliation of work and family life for the worker concerned.

**Article 21 (Installation, Support, etc. of Workplace Childcare Facilities)**

(1) An employer shall install childcare facilities necessary for child-rearing such as breast-feeding, childcare, etc. (hereinafter referred to as “workplace childcare facilities”) to support employment of workers.

(2) The matters on the installation and operation of workplace childcare facilities, including the scope of employers required to install workplace childcare facility, shall be in accordance with the Infant Care Act.

(3) The Minister of Labor shall provide support and guidance necessary to install and operate workplace childcare facilities at work provided in paragraph (1), to promote employment of workers.
Article 21-2 (Other Support related to Childcare)

The Minister of Labor, in case an employer except for an employer required to install workplace childcare facilities according to Article 21, intends to do so, may provide information, counseling, part of expenses, etc. necessary to install and operate workplace childcare facilities.

Article 22 (Installation of Public Welfare Facilities)

(1) The State or a local government may install a public welfare facility for education, childcare, housing, etc. for working women.

(2) Matters necessary for the standard and operation of public welfare facilities prescribed in paragraph (1) shall be determined by the Minister of Labor.

Article 22-2 (Support for Workers' Family Caring, etc.)

(1) In case a worker needs to take care of his/her family on account of the family member’s illness, accident, ageing, etc., an employer shall make efforts to take a measure falling under any of the following subparagraphs:

1. Leave to nurse family;
2. Adjustment of starting and closing time of work;
3. Limitation on overtime;
4. Adjustment of working hours, including reduction and flexible operation of working hours; and
5. Other support measures according to workplace conditions

(2) An employer shall make efforts to provide necessary psychological counseling service in order to help his/her workers soundly maintain work and family.

(3) In case an employer takes a measure according to paragraph (1), the Minister of Labor may provide necessary support in consideration of employment effects, etc.
Article 22-3 (Laying Foundation of Support for Work–Family Reconciliation)

(1) In order to provide support for the introduction and spread of work–family reconciliation programs, smooth operation of maternity protection measures, etc., the Minister of Labor shall conduct projects, including research, study and public relations, and provide professional counseling service, related information, etc. for employers and workers.

(2) The Minister of Labor may entrust public institutions or the private sector with the task as prescribed in paragraph (1) and the task related to the support for installing and operating workplace child–care facilities as determined by the Presidential Decree.

(3) The Minister of Labor may provide support for expenses used in task performance to an organization which is entrusted a task according to paragraph (2).

CHAPTER IV

Prevention and Mediation of Disputes
<Act No. 7822, Dec. 30, 2005> <Enforcement Date Mar. 1, 2006>

Article 23 (Counselling Support)

(1) The Minister of Labor may provide a private organization conducting a counselling service on discrimination, sexual harrassment at work, maternity protection, work–family reconciliation, etc. with support for part of the necessary expenses within the confines of the budget.

(2) Matters necessary for the requirements to select the organizations, the subsidizing criteria, subsidizing procedures and interruption of subsidizing etc. the expenses under paragraph (1) shall be determined by the Ordinance of the Ministry of Labor. <Amended by Act No. 7822, Dec. 30, 2005> <Enforcement Date Mar. 1, 2006>
Article 24 (Honorary Equal Employment Inspector)

(1) The Minister of Labor may commission a person recommended by both labor and management among the workers in the workplace concerned as an honorary equal employment inspector (hereinafter referred to as “Honorary Inspector”) in order to promote the equal employment at workplace.

(2) An honorary inspector shall perform the jobs prescribed in each subparagraph below.
   1. Providing counselling and advice to a worker who is the victim of discrimination or Sexual Harassment in the workplace
   2. Attendance in an autonomous check-up of equal employment observance status and provision of guidance at the concerned workplace
   3. Recommending an employer to make improvement on the law violations and reporting the violations to the authorities concerned
   4. Public relations activities and education on equal employment system
   5. Other jobs determined by the Minister of Labor to realize the gender equality in employment

(3) An employer shall not take any disadvantageous measure, including disadvantage in personnel management, to an honorary inspector for carrying out the rightful activities.

(4) The commissioning and decommissioning of an honorary inspector and other necessary matters shall be prescribed by the Ordinance of the Ministry of Labor.

Article 25 (Autonomous Settlement of Disputes)

The employer shall strive for autonomous settlement thereof, such as entrusting the settlement of predicament to the labor and management consultation council established in relevant business place under the Act on the Promotion of Workers Participation and Cooperation, when a worker reports predicament on matters under the provisions of Articles 7 through 13, 13-2, 14-2, 18 (4), 18-2, 19, Articles 19-2 through 19-6, 21, and 22-2.

<This Article Wholly Amended by Act No. 8781, Dec. 21, 2007> <Enforcement Date Jun. 22, 2008>
Articles 26 through 29 Deleted. <by Act No. 7822, Dec. 30, 2005>  
<Enforcement Date Mar. 1, 2006>

Article 30 (Burden of Proof)  
The burden of proof in settling the disputes related to this Act shall be borne by the employer.  
<This Article Wholly Amended by Act No. 8781, Dec. 21, 2007> <Enforcement Date Jun. 22, 2008>

CHAPTER V  
Supplementary Provisions

Article 31 (Report and Inspection, etc.)  
(1) The Minister of Labor may, if it is deemed necessary to enforce this Act, order employers to make necessary reports and submit the related documents, or have the concerned public official visit the workplace concerned to question the related person or inspect the related documents.  
(2) When making such a visit as prescribed in the paragraph (1), the concerned public official shall present a certificate showing his/her authority to the related person. <This Article Wholly Amended by Act No. 8781, Dec. 21, 2007> <Enforcement Date Jun. 22, 2008>

Article 32 (Announcement on Implementation Status, etc. of Equal Employment)  
The Minister of Labor may, if it is deemed necessary to ensure the effectiveness of this Act, announce the implementation status of equal employment and other survey results. However, this shall not apply in case the announcement is restricted by other Acts.

Article 33 (Keeping of Related Documents)  
An employer shall keep the documents related to the matters pursuant to this Act as determined by the Presidential Decree for three years.

Article 34 (Application to Dispatched Workers)  
When the provision of Article 13(1) is applied to the workplaces where dispatched workers are used pursuant to the Act relating to Protection, etc. for Dispatched Workers, the
using employer prescribed in Article 2(4) of the Act relating to Protection, etc. for Dispatched Workers shall be regarded as the employer prescribed in this Act. <Amended by Act No. 7822, Dec. 30, 2005> <Enforcement Date Mar. 1, 2006>

Article 35 (Subsidy for Expenses)

(1) The State, a local government and a public entity may subsidize all or part of the expenses for the projects related to the promotion of women's employment and welfare within the confines of the budget.

(2) The State, a local government and a public entity may, if one who has received the subsidies in accordance with paragraph (1) falls under any of the following subparagraphs, wholly or partially revoke the decision to provide the subsidies, and order a return of all or part of the already provided subsidies:
   1. when one used the subsidies for purposes other than the originally intended project;
   2. when one violated the contents (including the conditions, in case there is any condition attached) of the subsidy provision decision; and
   3. when one received the subsidies through a false and fraudulent method.

Article 36 (Delegation and Entrustment of Authority)

The Minister of Labor may delegate part of the authority under this Act to the heads of local labor administrations or local governments, or entrust it to public entities as determined by the Presidential Decree.

CHAPTER VI

Penal Provisions

Article 37 (Penal Provisions)

(1) In case an employer discriminates against men or women in workers' age limit, retirement and dismissal in violation of Article 11, or concludes a labor contract which
expects retirement on the ground of women workers' marriage, pregnancy and childbirth, he/she shall be punished by imprisonment of 5 years or less or a penalty of 30 million won or less.

(2) In case an employer commits an action in violation of any of the following subparagraphs, he/she shall be punished by imprisonment of three years or less or a penalty of 20 million won or less:

1. In case an employer does not pay the equal wage for the work of equal value in the same business in violation of Article 8(1):

2. In case an employer takes unfavorable measures such as dismissal or other disadvantageous measures against a worker who was affected sexual harassment and a worker who has raised the relevant protest in violation of Article 14(2):

3. In case an employer dismisses and gives other unfavorable treatment to a worker on account of taking childcare leave in violation of Article 19(3), or dismisses the worker concerned during the childcare leave without the reason prescribed in the same paragraph:

4. In case an employer dismisses or give other disadvantageous treatment to the concerned worker on a count of working hour reduction in childcare period in violation of Article 19–2(5); and

5. In case an employer makes working conditions disadvantageous for a worker who has working hour reduction in childcare period on account of working hour reduction, except a case is applied in proportion to working hours in violation of Article 19–3(1).

(3) In case an employer, in violation of Article 19–3(3), without the concerned worker's making an explicit request, assigns overtime work to a worker whose working hours are reduced during childcare period besides the reduced working hours, he/she shall be punished by a penalty of 10 million won or less.

(4) In case an employer commits a violation act falling under any of the following subparagraphs, he/she shall be punished by a penalty of 5 million won or less:

1. In violation of Article 7, in case an employer
discriminates against men or women based on gender in recruitment and hiring, or when recruiting and hiring female workers, in case an employer presents or demands certain physical conditions, including appearance, height, weight, etc., unmarried status, etc., which are not required to perform a certain job:

2. In violation of Article 9, in case an employer discriminates against men or women in managing welfare programs such as payment of money and goods or loans other than wages in a bid to support workers’ lives:

3. In violation of Article 10, in case an employer discriminates against men or women in training, posting and promotion:

4. In violation of Article 19(1) and (4), in case an employer does not grant childcare leave, after a worker asks for leave to take care of a nursling or infant, or in case an employer does not allow an employee whose childcare leave ends to return to the same work which the employee used to do before the childcare leave or to the work paying the equivalent level of wages:

5. In violation of Article 19-2(6), after the duration of working hour reduction in childcare period is over, the employer does not allow the worker to return to the same work or the work offering the same level of wage before working hour reduction in childcare period; and

6. In violation of Article 24(3), in case an employer takes any disadvantageous measure, including disadvantage in personnel management, to the worker concerned as an honorary inspector for carrying out the rightful activities.

Article 38 (Joint Penal Provisions)

(1) If a juristic person’s representative, agent, employer or other employee commits an action as prescribed in Article 37 in connection with the juristic person’s work, the penalty as prescribed in same Article shall be imposed on the juristic person as well as the offender.

(2) If an individual’s representative, agent, employer or other employee commits an action as prescribed in Article 37 in connection with the individual’s work, the penalty as prescribed in same Article shall be imposed on the individual as well as the offender.
Article 39 (Fine for Negligence)

(1) An employer who engages in Sexual Harassment in the workplace in violation of Article 12 shall be punished by a fine for negligence of ten million won or less.

(2) An employer who commits an action in violation of any of the following subparagraphs shall be punished by a fine for negligence of five million won or less:

1. In violation of Article 14(1), in case an employer does not take a disciplinary measure and other equivalent measures without delay upon finding Sexual Harassment in the workplace:

2. In violation of Article 14–2(2), in case an employer dismisses or takes other disadvantageous measures against a worker on the ground that he/she claims to have been victimized or has refused sexual demands, etc., from a client, etc.

3. In violation of Article 18–2(1), in case an employer does not grant his/her worker three–day leave even after the worker requests leave for his spouse's childbirth:

4. In violation of Article 19–2(2), in case when not allowing the worker to have working hour reduction in childcare period, the worker does not notify the worker of the reason in writing and not consult with the worker about whether he/she can help the worker by granting childcare leave or taking other measures; and

5. In violation of Article 19–3(2), in case an employer does not determine working conditions in writing as for a worker whose working hour has been reduced in childcare period.

(3) Any person who falls under any one of the following subparagraphs shall be punished by a fine for negligence of three million won or less:

1. A person who does not conduct education in order to prevent Sexual Harassment in the workplace in violation of Articles 13 (1):

2. A person who does not submit an implementation plan in violation of Article 17–3(1):

3. A person who does not submit the current situation of employment of male and female workers or submit it in
4. A person who does not submitted an implementation plan or submit it in falsity in violation of Article 17-3 (2);
5. A person who does not actively cooperate in every procedure of drawing up, confirming, etc. the related documents in violation of Article 18(4);
6. A person who refuses to report or submit the related documents, report or submit it in falsity in violation of Article 31(1);
7. A person who has refused, obstructed, or evaded the inspection in violation of Article 31(1); and
8. A person who does not keep the related documents for three years in violation of Article 33.

(4) The fine for negligence under paragraph (1) through (3) shall be imposed and collected by the Minister of Labor as prescribed by the Presidential Decree.

(5) One who is dissatisfied with the imposition of a fine for negligence under paragraph (4) may raise an objection against Minister of Labor within thirty days after the receipt of the notification on the imposition.

(6) If a person who is imposed with a fine for negligence pursuant to paragraph (4) raises an objection in accordance with paragraph (5), the Minister of Labor shall notify it without delay to the competent court, which shall, upon receiving the notification, bring the case of fine for negligence to trial under the Non-Contentious Case Litigation Procedure Act.

(7) If no objection is made or no fine for negligence is paid within the period in accordance with paragraph (5), the fine for negligence shall be collected according to the examples of the disposition of the national taxes in arrears.

Addenda  <Act No. 9792, Oct. 9, 2009: Revision of the Framework Act on Employment Policy>

Article 1 (Enforcement Date)

This Act shall enter into force on January 1, 2010.

Articles 2 (Revision of Other Laws)

(1) Parts of the Act on Equal Employment and Support for Work-Family Reconciliation shall be revised as follows :

Article 17-7 shall be changed as follows :
Article 17-7 (Deliberation on Important Matters concerning Active Affirmative Action Measures)

Any of the following matters concerning affirmative action measures shall be subject to deliberation by the Employment Policy Council under Article 10 of the Framework Act on Employment Policy:

1. Matters concerning criteria for employment of female workers under Article 17-3 (1);
2. Matters concerning the examination of implementation plans under Article 17-3 (4);
3. Matters concerning the evaluation of the implementation results of affirmative action measures under Article 17-4 (2);
4. Matters concerning commendation and support for enterprises excellent in taking affirmative action measures under Article 17-4 (3) and (4); and
5. Other matters referred by the chairman of the Employment Policy Council on affirmative action measures

(2) through (8) Omitted.

Article 3 Omitted.

Addenda 〈Act No. 9795, Oct. 9, 2009: Revision of the Employment Security Act〉

Article 1 (Enforcement Date)
This Act shall enter into force three months after its promulgation.

Articles 2 through 4 Omitted.

Articles 2 (Revision of Other Laws)

(1) Omitted.

(2) Parts of the Act on Equal Employment and Support for Work–Family Reconciliation shall be revised as follows:

"Article 4 of the Employment Security Act" in Article 15 and Article 17–2 (2) shall be changed to "paragraph 1 of Article 2–2 of the Employment Security Act".

(3) through (7) Omitted.

Article 6 Omitted.