

Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment

(Act No. 113 of July 1, 1972)

Table of contents

- Chapter I General Provisions (Art. 1-4)
- Chapter II Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment
 - Section I Prohibition of Discrimination on the Basis of Sex, Etc. (Art. 5-10)
 - Section II Measures to be Taken by Employers (Art. 11-13)
 - Section III The State Assistance for Employers (Art. 14)
- Chapter III Resolution of Disputes
 - Section I Assistance in the Resolution of Disputes (Art. 15-17)
 - Section II Conciliation (Art. 18-27)
- Chapter IV Miscellaneous Provisions (Art. 28-32)
- Chapter V Penal Provisions (Art. 33)
- Supplementary Provisions

Chapter I General Provisions

(Purposes)

Article 1 The purposes of this Act are to promote securing equal opportunity and treatment between men and women in employment in accordance with the principle in the Constitution of Japan of ensuring equality under law, and to promote measures, among others, to ensure the health of women workers with regard to employment during pregnancy and after childbirth.

(Basic Principle)

- Article 2 (1) The basic principle of this Act is that workers be enabled to engage in full working lives, with respect for maternity in the case of women workers but without discrimination based on sex for all workers.
- (2) Employers, the national government and local governments shall, in compliance with the basic principle prescribed in the preceding paragraph, endeavor to promote the full working lives of workers.

(Enlightenment Activities)

Article 3 The national government and local government shall conduct the necessary enlightenment activities to increase public interest and understanding with regard to the securing, etc. of equal opportunity and treatment between men and women in employment, and especially to remove the various factors preventing the securing of equal opportunity and treatment between men and women in employment.

(Basic Policy on Measures for Equal Employment Opportunities for Men and Women)

Article 4 (1) The Minister of Health, Labor and Welfare shall formulate a basic policy concerning measures in connection with the securing, etc. of equal opportunity and treatment between men and women in employment (hereinafter referred to as the "Basic Policy on Measures for Equal Employment Opportunities for Men and Women").

- (2) The matters to be determined in the Basic Policy on Measures for Equal Employment Opportunities for Men and Women shall be as follows:
 - (i) Matters relating to each trend in men and women workers' working lives; and
 - (ii) Basic matters concerning the measures to be taken with regard to the securing, etc. of equal opportunity and treatment between men and women in employment.
- (3) The Basic Policy on Measures for Equal Employment Opportunities for Men and Women shall be formulated with due regard to such matters as the working conditions, views, and employment situations of men workers and women workers respectively.
- (4) The Minister of Health, Labor and Welfare, in formulating the Basic Policy on Measures for Equal Employment Opportunities for Men and Women, shall consult the Labor Policy Council and request the opinions of the prefectural governors in advance.
- (5) After having formulated the Basic Policy on Measures for Equal Employment Opportunities for Men and Women, The Minister of Health, Labor and Welfare shall publicize the outline thereof without delay.
- (6) The provisions of paragraphs 4 and 5 above shall apply mutatis mutandis to amendments to the Basic Policy on Measures for Equal Employment Opportunities for Men and Women.

Chapter II Securing, Etc. of Equal Opportunity and Treatment

between Men and Women in Employment

Section I Prohibition of Discrimination on the Basis of Sex, Etc.

(Prohibition of Discrimination on the Basis of Sex)

Article 5 With regard to the recruitment and employment of workers, employers shall provide equal opportunities for all persons regardless of sex.

Article 6 With regard to the following matters, employers shall not discriminate against workers on the basis of sex.

- (i) Assignment (including allocation of duties and grant of authority), promotion, demotion, and training of workers;
- (ii) Loans for housing and other similar fringe benefits as provided by Ordinance of the Ministry of Health, Labor and Welfare;
- (iii) Change in job type and employment status of workers; and
- (iv) Encouragement of retirement, mandatory retirement age, dismissal, and renewal of the labor contract.

(Measures on the basis of Conditions other than Sex)

Article 7 An employer shall not take measures which concern the recruitment and employment of workers, or any of the matters listed in the items of the preceding Article and apply a criterion concerning a person's condition other than the person's sex, and which is specified by Ordinance of the Ministry of Health, Labor and Welfare as measures that may cause a virtual discrimination by reason of a person's sex, considering the proportion of men and women who satisfy the criterion and other matters, except in a case where there is a legitimate reason to take such measures, such as a case where such measures are specifically required for the purpose of performing the relevant job in the light of the nature of that job; or a case where such measures are specifically required for the purpose of employment management in the light of the circumstances of the conduct of the employer's business.

(Special Provisions of Measures Pertaining to Women Workers)

Article 8 The preceding three paragraphs shall not preclude employers from taking measures in connection with women workers with the purpose of improving circumstances that impede the securing of equal opportunity and treatment between men and women in employment.

(Prohibition, etc. of Disadvantageous Treatment by Reason of Marriage,

Pregnancy, Childbirth, etc.)

Article 9 (1) Employers shall not stipulate marriage, pregnancy or childbirth as a reason for retirement of women workers.

(2) Employers shall not dismiss women workers for marriage.

(3) Employers shall not dismiss or give disadvantageous treatment to women workers by reason of pregnancy, childbirth, or for requesting absence from work as prescribed in Article 65, paragraph 1, of the Labor Standards Act (Act No. 49 of 1947) or having taken absence from work as prescribed in the same Article, paragraph 1 or 2, of the same act, or by other reasons relating to pregnancy, childbirth as provided by Ordinance of the Ministry of Health, Labor and Welfare.

(4) Dismissal of women workers who are pregnant or in the first year after childbirth shall be void. However, this shall not apply in the event that the employers prove that dismissals are not by reasons prescribed in the preceding paragraph.

(Guidelines)

Article 10 (1) The Minister of Health, Labor and Welfare shall formulate guidelines that are necessary for the purpose of ensuring employers deal appropriately with the matters prescribed in the provisions of Articles 5 to 7 inclusive and of the preceding Article, paragraphs 1 to 3 inclusive (referred to as the "Guidelines" in the following paragraph).

(2) The provisions of Article 4, paragraphs 4 and 5, shall apply mutatis mutandis to the formulation and amendment of the Guidelines. In these cases, the term "shall consult the Labor Policy Council and request the opinions of the prefectural governors" in Article 4, paragraph 4 shall be deemed to be replaced with "shall consult the Labor Policy Council."

Section II Measures to be Taken by Employers

(Employment Management Measures Concerning Problems Caused by Sexual Harassment in the Workplace)

Article 11 (1) Employers shall establish necessary measures in terms of employment management to give advice to workers and cope with problems of workers, and take other necessary measures so that workers they employ do not suffer any disadvantage in their working conditions by reason of said workers' responses to sexual harassment in the workplace, or in their working environments do not suffer any harm due to said sexual harassment.

(2) The Minister of Health, Labor and Welfare shall formulate guidelines required for appropriate and valid implementation of measures to be taken by employers

pursuant to the provisions of the preceding paragraph (referred to as the "Guidelines" in the following paragraph).

- (3) The provisions of Article 4, paragraphs 4 and 5 shall apply mutatis mutandis to the formulation and amendment of the Guidelines. In these cases, the term "shall consult the Labor Policy Council and shall request the opinions of the prefectural governors" in Article 4, paragraph 4 shall be deemed to have been replaced with "shall consult the Labor Policy Council."

(Measures in Connection with Health Care during Pregnancy and after Childbirth)

Article 12 Employers shall secure the necessary time off pursuant to the provisions of Ordinance of the Ministry of Health, Labor and Welfare so that women workers they employ may receive the health guidance and medical examinations prescribed in the Maternal and Child Health Act (Act No. 141 of 1965).

Article 13 (1) Employers shall take necessary measures, such as change of working hours and reduction of work, in order to enable the women workers they employ to comply with the directions they receive based on the health guidance and medical examinations referred to in the preceding Article.

- (2) The Minister of Health, Labor and Welfare shall formulate necessary guidelines in order to promote their appropriate and valid implementation of measures to be taken by employers pursuant to the provisions of the preceding paragraph (referred to as the "Guidelines" in the following paragraph).
- (3) The provisions of Article 4, paragraphs 4 and 5, shall apply mutatis mutandis to the formulation and amendment of the Guidelines. In these cases, the term "shall consult the Labor Policy Council and request the opinions of the prefectural governors" in Article 4, paragraph 4 shall be deemed to be replaced with "shall consult the Labor Policy Council."

Section III The State Assistance for Employers

Article 14 In cases where employers take or seek to take any of the following measures for the purpose of improving the circumstances preventing the securing of equal opportunity and treatment between men and women in employment, the State may provide consultation services and other assistance to said employers in order to promote the securing of equal opportunity and treatment between men and women in employment.

- (i) Analysis of the assignments and other employment-related circumstances of the employers' workers;

- (ii) Preparation, based on the analysis referred to in the preceding item, of plans concerning measures necessary in improving circumstances that prevent the securing of equal opportunity and treatment between men and women in employment;
- (iii) Implementation of the measures provided for in the plans referred to in the preceding item;
- (iv) Establishment of the system necessary to implement the measures referred to in the preceding three items; and
- (v) Disclosure of the implementation of measures referred to in the preceding items.

Chapter III Resolution of Disputes

Section I Assistance in the Resolution of Disputes

(Voluntary Resolution of Complaints)

Article 15 Employers shall, when a complaint is submitted by workers concerning matters prescribed in Articles 6, 7, 9, 12 and Article 13, paragraph 1 (except the recruitment and employment of workers), endeavor to achieve voluntary resolutions by such means as referring said complaint to grievance bodies (which are bodies for resolving complaints from the workers of the workplace, composed of representatives of the employer and representatives of the workers of the said workplace).

(Special Provisions of Promotion of the Resolution of Disputes)

Article 16 The provisions of Article 4, Article 5, and Articles 12 through 19 of the Act on Promoting the Resolution of Individual Labor Disputes (Act No. 112 of 2001) shall not apply to a dispute between a worker and an employer with regard to the provisions of Articles 5 through 7, Article 9, Article 11, paragraph 1, Article 12, Article 13, paragraph 1. Instead, said dispute shall be subject to the provisions of Articles 17 through 27 herein.

(Assistance in the Resolution of Disputes)

Article 17 (1) The directors of Prefectural Labor Offices may, when asked by either party or both parties to a dispute prescribed in the preceding Article for assistance to resolve said dispute, give any necessary advice or guidance or make any necessary recommendation to the parties to said dispute.

(2) Employers shall not dismiss or give disadvantageous treatment to a worker by reason of said worker requesting the assistance set forth in the preceding

paragraph.

Section II Conciliation

(Delegation of Conciliation)

Article 18 (1) The director of each Prefectural Labor Office shall refer to the competent Disputes Adjustment Commission provided for in Article 6, paragraph 1 of the Act on Promoting the Resolution of Individual Labor Disputes (hereinafter referred to as the "Commission") for the conciliation of disputes provided for in Article 16 (except a dispute on the recruitment and employment of workers) when either party or both parties to said dispute (hereinafter referred to as the "parties concerned") apply for conciliation and the Director finds conciliation necessary to resolve said dispute.

(2) The provision of paragraph 2 of the preceding Article shall apply mutatis mutandis to cases in which a worker applies for conciliation set forth in the preceding paragraph.

(Conciliation)

Article 19 (1) The conciliation prescribed in paragraph 1 of the preceding Article (hereafter in this section referred to as the "Conciliation") shall be conducted by three conciliation commissioners.

(2) The conciliation commissioners shall be nominated in advance by the Commission chairperson from among its members.

Article 20 (1) The Commission may, when it finds necessary for the Conciliation, request the parties concerned to appear and hear their opinions.

(2) The Commission may, when it finds necessary for the Conciliation pertaining to a dispute between workers and the employer with regard to the provisions of Article 11, paragraph 1 and when both parties concerned express their consent, request the parties concerned and persons who are alleged to have engaged in sexual harassment in the workplace pertaining to said case to appear and hear their opinions.

Article 21 The Commission shall, when it finds necessary based on the application of the parties concerned, hear the opinions as to said case in question of the representatives of the workers concerned or the representatives of the employers concerned who are nominated by major organizations of workers or employers in the jurisdictional district of the Prefectural Labor Office where said Commission is established.

Article 22 The Commission may prepare a conciliation proposal and recommend its acceptance to the parties concerned.

Article 23 (1) The Commission may, when it finds no chance for resolution by conciliation, discontinue the Conciliation as to the disputes pertaining to.

(2) The Commission shall, when it discontinues the Conciliation pursuant to the provision of the preceding paragraph, notify the parties concerned of said discontinuance.

(Interruption of Prescription)

Article 24 When the Conciliation is discontinued pursuant to the provision of the paragraph 1 of the preceding Article and the persons who applied for the Conciliation file a suit as to the claim which was the purpose of the Conciliation within 30 days of the day of notification prescribed under the same Article, paragraph 2, the suit shall be deemed to be filed on the day when the Conciliation was applied for in terms of interruption of prescription.

(Suspension of Court Proceedings)

Article 25 (1) In the case of court proceedings that are pending between the parties concerned as to civil disputes prescribed in Article 18, paragraph 1, the court proceedings by setting a period of up to four months when both of the parties concerned file joint petition for suspension and either of the circumstances below can be applied.

(i) Said conciliation is to be carried out between the parties concerned as to the dispute concerned.

(ii) In addition to the cases prescribed in the preceding item, the parties concerned are to have an agreement to resolve said disputes through Conciliation.

(2) The court of suit may rescind the ruling prescribed in the preceding paragraph at any time.

(3) No appeal shall be available against a ruling to dismiss the petition prescribed in paragraph 1 and a ruling to rescind the ruling prescribed in paragraph 1 under to the provision of the preceding paragraph.

(Request, Etc. for Provision of Data)

Article 26 The Commission may, when it finds necessary in order to resolve cases pending before the Commission, ask relevant administrative agencies for necessary cooperation such as the provision of data.

(Delegation to Ordinance of the Ministry of Health, Labor and Welfare)

Article 27 Necessary matters concerning the procedures for the Conciliation in addition to those provided for in this section shall be provided for by Ordinance of the Ministry of Health, Labor and Welfare.

Chapter IV Miscellaneous Provisions

(Investigations, Etc.)

Article 28 (1) The Minister of Health, Labor and Welfare shall implement necessary researches and studies concerning working lives of men workers and women workers respectively.

(2) The Minister of Health, Labor and Welfare may, when he/she finds necessary with regard to the enforcement of this Act, ask the director of each relevant administrative organ for necessary cooperation such as the provision of data.

(3) The Minister of Health, Labor and Welfare may, with regard to the enforcement of this Act, request needed investigation reports from the prefectural governors.

(Collection of Reports and Issuing of Advice, Guidance, and Recommendations)

Article 29 (1) The Minister of Health, Labor and Welfare may, when he/she finds necessary with regard to the enforcement of this Act, request reports of employers and give employers advice, guidance, and recommendations.

(2) The authority of The Minister of Health, Labor and Welfare prescribed in the preceding paragraph may be delegated to the directors of Prefectural Labor Offices, based on Ordinance of the Ministry of Health, Labor and Welfare.

(Publication)

Article 30 In the event that an employer is in violation of any of the provisions of Articles 5 to 7, Article 9, paragraphs 1 to 3, Article 11, paragraph 1, Article 12 and Article 13, paragraph 1, the Minister of Health, Labor and Welfare gave recommendations pursuant to the provisions of paragraph 1 of the preceding Article, but the employer has not complied with it, the Minister of Health, Labor and Welfare may make a public announcement of such violation.

(Special Provisions for Mariners)

Article 31 (1) With regard to the mariners and persons seeking to become mariners prescribed in Article 6 paragraph 1 of the Seafarer's Employment Security Act (Act No. 130 of 1948), the term "The Minister of Health, Labor and Welfare" in Article 4 paragraphs 1, 4, and 5 (including cases in which the aforementioned applies mutatis mutandis to Article 4 paragraph 6, Article 10 paragraph 2,

Article 11 paragraph 3, and Article 13 paragraph 3), Article 10 paragraph 1, Article 11 paragraph 2, Article 13 paragraph 2, and Articles 28, 29, and 30 shall be deemed to be replaced with "Minister of Land, Infrastructure, Transport and Tourism"; the term "Labor Policy Council" in Article 4 paragraph 4 (including cases in which the aforementioned applies mutatis mutandis to Article 4 paragraph 6, Article 10 paragraph 2, Article 11 paragraph 3, and Article 13 paragraph 3) shall be deemed to be replaced with "Central Labor Relations Commission for Mariners."; the term "Ordinance of the Ministry of Health, Labor and Welfare" in Article 6 item 2, Article 7, Article 9 paragraph 3, Article 12, and Article 29 paragraph 2 shall be deemed to be replaced with "Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism"; the term "requesting a leave as prescribed in Article 65 paragraph 1, of the Labor Standards Act (Act No. 49 of 1947) or having taken a leave as prescribed in the same Article, paragraph 1 or 2 of the same Act" in Article 9, paragraph 3 shall be deemed to be replaced with "having been absent from work as prescribed in Article 87 paragraph 1 or 2 of the Mariners' Act (Act No. 100 of 1947)"; the term "directors of Prefectural Labor Offices" in Article 17 paragraph 1, Article 18 paragraph 1, and Article 29 paragraph 2 shall be deemed to be replaced with "District Transport Bureau Chief (including Director of Marine Transport Control Department)"; the term "refer to the Disputes Adjustment Commission provided for in Article 6 paragraph 1 of the Act on Promoting the Resolution of Individual Labor Disputes (hereinafter referred to as "Commission") for conciliation" in Article 18 paragraph 1 shall be deemed to be replaced with "refer to the District Labor Relations Commission for Mariners for conciliation."

- (2) The provisions of Chapter III, Section II shall not apply to the Conciliation conducted by the District Labor Relations Commission for Mariners upon the referral provided for in the provisions of Article 18, paragraph 1 being replaced in accordance with the preceding paragraph.
- (3) Managements for the Conciliation of matters set forth in the preceding paragraph shall be dealt with by the council composed of three members nominated from among public members by the chairperson of said District Labor Relations Commission for Mariners. In this case, said council, when it finds necessary based on the application of the parties concerned, shall hear the opinions on said case of the members who are nominated by the chairperson of said District Labor Relations Commission for Mariners from among the employer members and worker members.
- (4) The provisions of Articles 20, 22 to 27 inclusive shall apply mutatis mutandis to the Conciliation referred to in paragraph 2. In this case, the term "Commission" in Articles 20, 22, 23, and 26 shall be deemed to be replaced with "District Labor Relations Commission for Mariners." The term "this section" in Article 27 shall be

deemed to be replaced with "Article 31, paragraphs 3 and 4," the term "Conciliation" in the same Article with "the council and Conciliation" and the term "Ordinance of The Minister of Health, Labor and Welfare" in the same Article with "Rules of the District Labor Relations Commission for Mariners."

(Exclusion of Application)

Article 32 The provisions of Chapter II, Sections I and III, the preceding Chapter, Articles 29 and 30 shall not apply to members of the national and local public. The provisions of Chapter II, Section II shall not apply to national officer in the regular government service (except personnel referred to in Article 2, item 4 of the Public Corporation and National Enterprise Labor Relations Act (Act No. 257 of 1948), court officer who are subject to the Act on Temporary Measures concerning Court Officer (Act No. 299 of 1951), Diet officer who are subject to the National Diet Officer Act (Act No. 85 of 1947), and members prescribed in Article 2, paragraph 5 of the Self Defense Forces Act (Act No. 165 of 1954).

Chapter V Penal Provisions

Article 33 Any person who has not made a report required by Article 29, paragraph 1 or who has made a false report shall be liable to a civil fine of not more than 200,000 yen.

Supplementary Provisions (Extract)

(Effective Date)

Article 1 This Act shall come into force as from the date of its promulgation.

Supplementary Provisions (Act No. 82 of June 21, 2006)

(Effective Date)

Article 1 This Act shall come into force as from April 1, 2007. However, the provisions of Article 7 of the Supplementary Provisions shall come into force as from either of the date of enforcement of revised provisions of Article 2,

paragraph 1, item 1 (4) of the Public Consultant on Social and Labor Insurance Act (Act No. 89 of 1968) in the Act for Partial Revision of the Public Consultant on Social and Labor Insurance Act (Act No. 62 of 2005) or the enforcement date of this Act, which is later.

(Transitional Measures as to Special Provisions of Promotion of the Resolution of Disputes)

Article 2 With regard to disputes under the conciliation prescribed in Article 5, paragraph 1 of the Act on Promoting the Resolution of Individual Labor Disputes (Act No. 112 of 2001) pending before the Disputes Adjustment Commission (hereinafter referred to as the "Commission") provided for in Article 6, paragraph 1 of the same Act already arisen upon enforcement of this Act, the provisions then in force remain applicable, notwithstanding the provisions of Article 16 of the Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment revised in accordance with the provisions of Article 1 (hereinafter referred to as "New Act").

(Transitional Measures as to Interruption of Prescription)

Article 3 With regard to application of the provisions of Article 24 of the New Act to any claim subject to the Conciliation as to Article 14, paragraph 1 of the Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment prior to the revision by this Act in accordance with the provisions of Article 1 pending before the Commission upon enforcement of this Act, the Conciliation shall be deemed as applied for when this Act comes into force.

(Transitional Measures as to Penal Provisions)

Article 4 With regard to the application of penal provisions to acts committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

(Reviews)

Article 5 The Government shall, when five years have passed since the enforcement of this Act, consider the state of enforcement of the New Act and the provisions of Article 64-2 of the Labor Standards Act revised in accordance with the provisions of Article 2. Government shall, when it finds necessary, review these provisions and, based on such review, take necessary measures.

(Partial Revision of the Seafarer's Employment Security Act)

Article 6 The Mariners Employment Security Act (Act No. 130 of 1948) shall be partially revised as stated below.

"Chapter III" in Article 91 shall be revised to "Article 9, paragraph 3, Article 11, paragraph 1, Article 12 and Article 13, paragraph 1" and "Article 21, paragraph 1" shall be revised to "Article 11, paragraph 1."

"Article 27, paragraph 1" in Article 92, paragraph 5 shall be revised to "Article 31, paragraph 1."

(Partial Revision of the Public Consultant on Social and Labor Insurance Act)
Article 7 The Public Consultant on Social and Labor Insurance Act shall be partially revised as stated below.

"Article 14, paragraph 1" in Article 2, paragraph 1, item 1 (4) shall be revised to "Article 18, paragraph 1."

(Partial Revision of the Special Measures Act for Employment Promotion of Mariners)
Article 8 The Special Measures Act for Employment Promotion of Mariners (Act No.96 of 1977) shall be partially revised as stated below.

"Article 27, paragraph 1" in Article 14, paragraph 6 shall be revised to "Article 31, paragraph 1."

(Partial Revision of the Act for Securing the Proper Operation of Worker Dispatching Undertakings and Improved Working Conditions for Dispatched Workers)
Article 9 The Act for Securing the Proper Operation of Worker Dispatching Undertakings and Improved Working Conditions for Dispatched Workers (Act No. 88 of 1985) shall be partially revised as stated below.

"Chapter III" in Article 47-2 shall be revised to "Article 9, paragraph 3, Article 11, paragraph 1, Article 12 and Article 13, paragraph 1" and "Article 21, paragraph 1" to "Article 11, paragraph 1."