ENFORCEMENT DECREE OF THE ACT ON EQUAL EMPLOYMENT AND SUPPORT FOR WORK-FAMILY RECONCILIATION

Presidential Decree No. 12489, Jul. 7, 1988

Amended by Presidential Decree No. 12850, Dec. 13, 1989
Presidential Decree No. 14642, May 1, 1995
Presidential Decree No. 14801, Nov. 7, 1995
Presidential Decree No. 16189, Mar. 17, 1999
Wholly Amended by Presidential Decree No. 17401, Oct. 31, 2001
Presidential Decree No. 18911, Jun. 30, 2005
Presidential Decree No. 19366, Feb. 28, 2006
Presidential Decree No. 19513, Jun. 12, 2006
Presidential Decree No. 20142, Jun. 29, 2007
Presidential Decree No. 20681, Feb. 29, 2008
Wholly Amended by Presidential Decree No. 20803, Jun. 5, 2008
Presidential Decree No. 21547, Jun. 19, 2009
Presidential Decree No. 21928, Dec. 30, 2009
Presidential Decree No. 22269, Jul. 12, 2010

CHAPTER I

General Provisions

Article 1 (Purpose)

The purpose of this Decree is to prescribe matters delegated by the Act on Equal Employment and Support for Work-Family Reconciliation and those necessary for the enforcement thereof.

Article 2 (Scope of Application)

(1) Pursuant to the proviso to Article 3 (1) of the Act on Equal Employment and Support for Work-Family Reconciliation (hereinafter referred to as the "Act"), the Act shall not apply, in whole, to businesses or workplaces (hereinafter referred to as "business") consisting of blood relatives residing together and to housekeepers.

(2) Pursuant to the proviso to Article 3 (1) of the Act, the provisions of Articles 8 through 10 and Article 11 (1) shall not apply to businesses with less than five workers.

CHAPTER II

Guarantee of Equal Opportunity and Treatment, etc. in Employment of Men and Women

Article 3 (Education to Prevent Sexual Harassment at Work)

(1) An employer shall, pursuant to Article 13 of the Act, conduct education to prevent sexual harassment at work at least once a year.

(2) The prevention education stated in paragraph (1) shall include each of the following subparagraphs:

1. Laws and regulations regarding sexual harassment at work;
2. Handling procedures and standards for measures upon occurrence of sexual harassment at work of the workplace concerned;
3. Grievance counseling and remedial procedures for victims of sexual harassment at work of the workplace concerned; and
4. Other matters necessary for the prevention of sexual harassment at work.

(3) The prevention education under paragraph (1) may, in consideration of business size, character, etc., be provided through employee training, morning sessions, meetings, cyber education, etc. using information communication network, such as the Internet, etc.: Provided that in cases where it is difficult to confirm whether education contents are properly delivered to workers as educational materials, etc., have been simply distributed or posted or electronic mail thereon has been sent or announced on the bulletin board, it shall not be considered that prevention education has been provided.

(4) Notwithstanding paragraphs (2) and (3), an employer falling under any of the following subparagraphs may conduct education to prevent sexual harassment at work by means of posting and distributing promotional materials in order for workers to know details provided for in Article 2 (1) through (4):

1. Businesses employing less than 10 workers; and
2. Businesses where all employers and workers are the same gender, male or female

(5) If an employer has his/her workers complete training courses containing matters falling under each subparagraph of

paragraph (2), among those training course recognized under Article 24 of the Workers' Vocational Skills Development Act, it shall be deemed that prevention education under paragraph (1) has been conducted for workers who have completed the said training courses.

Article 4 (Businesses Obligated to Establish and Submit Implementation Plans for Affirmative Action Measures)

(1) "Public agencies and organizations prescribed by the Presidential Decree" in Article 17-3 (1) 1 refers to public institutions under Article 4 of the Act on the Management of Public Institutions.

(2) "Business employing more workers than the scale prescribed by the Presidential Decree" in Article 17-3 (1) 2 of the Act refers to business ordinarily employing 500 workers or more.

(3) In applying paragraph (2), the number of workers shall be calculated by dividing the sum of the average monthly numbers of workers employed each month in the previous year by the number of months operating in that year.

Article 5 (Institutions, etc., Entrusted with Evaluation of Performance Results)

(1) "Institutions or organizations prescribed by the Presidential Decree" in Article 17-4 (6) of the Act mean research institutions established under Article 8 of the Act on the Establishment, Operation and Fostering of Government-Invested Research Institutions, or research institutions or juristic persons designated by the Minister of Employment and Labor among non-profit organizations established under Article 32 of the Civil Act. *<Amended by Presidential Decree No. 22269, Jul. 12, 2010>*

(2) The Minister of Employment and Labor may, if entrusting evaluation duties under Article 17-4 (6) of the Act, support part of the expenses incurred in performing such duties to the entrusted institution. *<Amended by Presidential Decree No. 22269, Jul. 12, 2010>*

Article 6 Deleted. *<Presidential Decree No. 21928, Dec. 30, 2009>*

Article 7 Deleted. *<Presidential Decree No. 21928, Dec. 30, 2009>*

Article 8 Deleted. *<Presidential Decree No. 21928, Dec. 30, 2009>*

Article 9 (Institutions Entrusted with Surveys and Research)

"Persons prescribed by the Presidential Decree" in Article 17-8 (2) of the Act refers to research institutions established under Article 8 of the Act on the Establishment, Operation and Fostering of Government-Invested Research Institutions, or research institutions or juristic persons designated by the Minister of Employment and Labor among non-profit organizations established under Article 32 of the Civil Act. *<Amended by Presidential Decree No. 22269, Jul. 12, 2010>*

CHAPTER III

Support for Work-Family Reconciliation

Article 10 (Exclusion from Childcare Leave)

An employer may, pursuant to the proviso to Article 19 (1) of the Act, may not grant childcare leave in any of the following cases:

1. A worker has offered continuous services in the business concerned for less than a year prior to the scheduled date of childcare leave(hereinafter referred to as "scheduled start date of leave"); or
2. A worker's spouse is on childcare leave for the same infant (including childcare leave provided under other Acts and subordinate statutes).

Article 11 (Application, etc. for Childcare Leave)

(1) A worker who intends to apply for childcare leave pursuant to Article 19 (1) of the Act shall submit to his/her employer an application specifying the name and date of birth of the infant to be cared for, the scheduled start date of leave, the date intended to terminate the childcare leave(hereinafter referred to as "scheduled end date of leave"), the date of application, and information on the applicant, etc., not later than 30 days prior to the scheduled start date of leave.

(2) Notwithstanding paragraph (1), a worker may apply for childcare leave by not later than seven days prior to the scheduled start date of leave in any of the following cases:

1. Where a child was born before the expected date of

delivery; or

2. Where rearing the infant is difficult due to the death, injury, illness or physical or mental disability of or divorce from the spouse.

(3) The employer shall designate the start date of childcare leave and grant childcare leave within 30 days from the date of application if the worker has applied for childcare leave after the lapse of deadline under paragraph (1), and within 7 days from the date of application if the worker has applied for childcare leave after the lapse of deadline under paragraph (2).

(4) The employer may request a worker who has applied for childcare leave to submit documents verifying the birth, etc., of the relevant child.

Article 12 (Application, etc. for Changes to Childcare Leave)

(1) A worker who has applied for childcare leave may, if causes falling under any subparagraph of Article 11 (2) have occurred before the scheduled start date of leave, apply to the employer, clarifying the reason therefor, to change the scheduled start date of leave to an earlier date.

(2) If a worker intends to postpone the scheduled end date of leave, he/she may do so only once. In this case, he/she shall apply to the employer by not later than 30 days prior to the original scheduled end date of leave (if he/she intends to postpone the scheduled end date of leave for any cause provided for in Article 11 (2) 2, 7 days prior to the original scheduled end date of leave).

Article 13 (Withdrawal, etc., of Application for Childcare Leave)

(1) A worker who has applied for childcare leave may withdraw the application by clarifying the reasons therefor by not later than 7 days prior to the scheduled start date of leave.

(2) If any cause falling under any of the following subparagraphs occurs after the worker applies for childcare leave but before the scheduled start date of leave, the application for childcare leave shall be deemed nonexistent. In this case, the worker shall, without delay, notify the employer of such facts.

1. Where the relevant infant dies;
2. Where the relevant infant is an adopted child for whom adoptive relationship has been annulled or dissolved; or

3. If the worker who has applied for childcare leave has become unable to care for the relevant infant due to injury, disease, physical or mental disability, divorce, etc.

Article 14 (Termination of Childcare Leave Upon Death, etc. of Infant)

(1) A worker on childcare leave shall, if the relevant infant is decreased or does not live with the worker, notify the employer of such facts within seven days of the date on which such incident occurred.

(2) The employer shall, if he/she has been notified of the death, etc., of the infant from the worker on childcare leave under paragraph (1), designate the start date of duties within 30 days from the date of such notification, and inform the worker of the date.

(3) The childcare leave of a worker shall be deemed to have ended on the date specified in any of the following subparagraphs:

1. The date preceding the start date of duties in case where a worker has given notice under paragraph (1) and has been notified of the start date of duties under paragraph (2);
2. The date when 30 days elapse from the date of notification under paragraph (1) in case where a worker has give notice under paragraph (1) but have not been notified of the start date of duties under paragraph (2); or
3. The date when 37 days elapse from the date of infant's death, etc., in case where a worker has not given notice under paragraph (1).

(4) If a worker on childcare leave starts new childcare leave or maternity leave pursuant to Article 74 of the Labor Standards Act, his/her childcare leave shall be considered to have ended on the date prior to the start date of the said maternity leave or childcare leave.

Article 15 (Mutatis Mutandis Application)

Articles 11 through 14 shall apply mutatis mutandis to the methods, procedures, etc., for application for working hour reduction for childcare period under Article 19-2 of the Act. In this case, "childcare leave" shall be regarded as "working hour reduction for childcare period", "scheduled start date of leave" in Article 11 through 13 as "scheduled start date of working hour reduction for childcare period", "scheduled end date of

leave" in Article 11 and 12 as "scheduled end date of working hour reduction for childcare period", and "start date of duties" in Article 14 (2) and (3) as "date of return to work prior to working hour reduction for childcare period."

Article 16 (Areas for Preferential Establishment of Welfare Facilities)

If the State and local governments establish public welfare facilities for female workers pursuant to Article 22 (1) of the Act, they shall preferentially establish such facilities in areas where female workers are concentrated, such as industrial complexes and rural regions, etc.

Article 17 (Entrustment of Duties, such as Surveys and Research, etc. to Support Work-Family Reconciliation)

(1) According to Article 22-3 (2) of the Act, the Minister of Employment and Labor may entrust duties concerning support for the establishment and operation of workplace childcare facilities under Article 21 and 21-2 of the Act, and concerning establishment of foundation for supporting work-family reconciliation under Article 22-3 (1) to an organization or a juristic person falling under any of the following subparagraphs: *<Amended by Presidential Decree No. 22269, Jul. 12, 2010>*

1. Quasi-government institutions under Article 5 (3) 2 of the Framework Act on the Management of Government-Invested Institutions;
2. Research institutions established under Article 8 of the Act on the Establishment, Operation and Forstering of Government-invested Research Institutions; and
3. Non-profit juristic persons established under Article 32 of the Civil Act to conduct business, such as support for work-family reconciliation, etc.

CHAPTER IV

Prevention and Settlement of Disputes

Article 18 (Grievance Reports, etc.)

(1) A report of grievances under Article 25 of the Act shall be done orally, in writing, or by mail, telephone, fax, or via the Internet, etc.

(2) An employer shall, if receiving a grievance report under paragraph (1), directly handle the reported grievances within 10 days from the date of receipt, or entrust the handling to the labor-management council established under the Act on the Promotion of Worker Participation and Cooperation, unless there is any special reason, and notify the relevant worker of the results of handling in cases of direct handling, and the fact of entrustment in cases of entrusting the handling to the labor management council.

(3) An employer shall prepare and keep the ledger of grievances filed and handled and shall preserve the relevant documents for 3 years.

(4) The ledger of filed and handled grievances under paragraph (3) shall be prepared and kept by means enabling electronic handling unless there is any special reason to prevent electronic handling, and the relevant documents under the same paragraph may be prepared and preserved in an electronic way.

CHAPTER V

Supplementary Provisions

Article 19 (Types of Documents to be Preserved)

"Such documents as precribed by the Presidential Decree" in Article 33 of the Act means those specified in the following subparagraphs:

1. Documents concerning recruitment, hiring, wages, money, goods, etc., other than wages, education, assignment, promotion, retirement age limit, retirement and dismissal under Articles 7 through 11 of the Act:
2. Documents to verify that education to prevent sexual harassment at work under Articles 13 and 13-2 of the Act has been conducted;
3. Documents concerning measures, such as disciplinary measures taken against a sexual harasser at work under Article 14(1) of the Act, etc.;
4. Deleted *<Presidential Decree No. 21547, Jun. 19, 2009>*
5. Documents concerning requests and permission for paternity leave under Article 18-2 of the Act;

6. Documents concerning application and permission for childcare leave under Articles 19 of the Act; and
7. Documents concerning application and permission for working hour reduction during childcare period under Articles 19-2 and 19-3 of the Act, and if it has not been permitted, documents concerning the notification of the reason and consultation, and documents concerning working conditions during working hour reduction for childcare period.

Article 20 (Hearing)

The Minister of Employment and Labor shall hold a hearing if he/she intends to revoke the designation of institutions for sexual harassment prevention education under Article 13-2 (4) of the Act. *<Amended by Presidential Decree No. 22269, Jul. 12, 2010>*

Article 21 (Delegation of Authority, etc.)

The Minister of Employment and Labor shall, pursuant to Article 36 of the Act, delegate the authority specified in the following subparagraphs to the heads of local employment and labor offices: *<Amended by Presidential Decree No. 22269, Jul. 12, 2010>*

1. Matters concerning designation and cancellation of institutions entrusted with sexual harassment prevention education under Article 13-2 of the Act;
2. Matters concerning establishment or operation of facilities to promote employment of women and subsidies for expenses incurred in performing such business under Article 17 of the Act;
3. Matters concerning requests for submission of, and acceptance of, implementation plans, requests for submission of supplementary documents to implementation plans, and acceptance of reports on the current status of female and make workers under Article 17-3 of the Act;
4. Matters concerning acceptance of performance results, notification of results of evaluation of performance results, and compulsion to carry out implementation plans under Article 17-4 of the Act;
5. Support, guidance, provision of information and counseling necessary for the establishment and operation of workplace childcare facilities under Articles 21 (3) and 21-2 of the Act;
6. Support for private organizations providing counseling

under Article 23 of the Act;

7. Matters concerning commission and decommissioning of honorary equal employment inspectors under Article 24 of the Act;
8. Matters concerning orders to submit reports and relevant documents, access to workplaces, questioning of relevant persons, and inspection of relevant documents under Article 31 of the Act; and
9. Matters concerning imposition and collection of fines for negligence under Article 39 of the Act.

CHAPTER VI

Fine for Negligence

Article 22 (Criteria for Imposition of Fine for Negligence)

(1) The criteria for the imposition of fines for negligence by type of offense under Article 39 (1) through (3) of the Act are provided in the attached Table.

(2) The Minister of Employment and Labor shall, when determining the amount of a fine for negligence, consider the motive, consequences, etc., of the relevant offense. *<Amended by Presidential Decree No. 22269, Jul. 12, 2010>*

Addenda *<Presidential Decree No. 20803, Jun. 5, 2008>*

Article 1 (Enforcement Date)

This Decree shall enter into force on June 22, 2008: Provided that the revised provisions of subparagraphs 4 through 6 of the table shall enter into force on June 22, 2009.

Article 2 (Special Cases on Obligation, etc. to Establish and Submit Implementation Plans for Affirmative Action Measures)

The revised provisions of Article 4 (1) shall not apply to public institutions ordinarily employing less than 50 workers among public institutions under Article 4 of the Framework Act on the Management of Government-Invested Institutions until April 30, 2013.

Article 3 (Transitional Measures on Obligation, etc. to Establish and Submit Implementation Plans for Affirmative

Action Measures)

As for public institutions (excluding public institutions falling under Article 2 of the Addenda) which are newly subject to Articles 17-3 and 17-4 of the Act according to the revised provisions of Article 4 (1), the obligation to submit under the following subparagraphs shall be applicable from the year concerned:

1. The initial submission of an implementation plan for affirmative action measures according to Article 17-3 (1) (only for public institutions whose employed female workers' ratio by occupation is short of the employment standard provided by the same provision): 2009.
2. The initial submission of a report on the current status of male and female workers by occupation and by position according to Article 17-3 (2): 2009.
3. The submission of the performance results under Article 17-4 (1) (only for public institutions whose employed female workers' ratio by occupation is short of the employment standard under Article 17-3 (1) of the Act): 2010.

Articles 4 (Revision of Other Decrees)

(1) Parts of the Enforcement Decree of the Labor Standards Act shall be revised as follows:

"Equal Employment Act" as prescribed in Article 2 (1) 5 shall be changed to "Act on Equal Employment and Support for Work-Family Reconciliation."

(2) Parts of the Enforcement Decree of the Basic Employment Policy Act shall be revised as follows:

"Equal Employment Act" as prescribed in Article 7 (5) 4 shall be changed to "Act on Equal Employment and Support for Work-Family Reconciliation."

(3) Parts of the Enforcement Decree of the Framework Act on Women's Development shall be revised as follows:

"Equal Employment Act" as prescribed in the proviso to Article 27-2 (1) shall be changed to "Act on Equal Employment and Support for Work-Family Reconciliation."

Article 5 (Relation with Other Laws)

If the previous provisions of the Enforcement Decree of the Act on Equal Employment and Support for Work-Family Reconciliation are quoted in other Acts and subordinate

statutes at the time this Act enters into force, and corresponding provisions thereof are contained in this Decree, the corresponding provisions of this Decree shall be deemed to be quoted in lieu of the previous provisions.

Addendum *<Presidential Decree No. 21547, Jun. 19, 2009>*

This Decree shall enter into force on the day of its promulgation.

Addenda *<Presidential Decree No. 21928, Dec. 30, 2009>*

Article 1 (Enforcement Date)
This Decree shall enter into force on Jan. 1, 2010.

Article 2 Omitted.

Article 3 (Revision of Other Decrees)
(1) through (5) omitted.
(6) Parts of the Enforcement Decree of the Act on Equal Employment and Support for Work-Family Reconciliation shall be revised as follows:
Article 6 through 8 Deleted.
(7) through (11) Omitted.

Article 4 Omitted.

Addenda *<Presidential Decree No. 22269, Jul. 12, 2010>*

Article 1 (Enforcement Date)
This Decree shall enter into force on the date of its promulgation. <Proviso omitted>

Article 2 (Revision of Other Decrees)
(1) through (51) omitted.
(52) Parts of the Enforcement Decree of the Act on Equal Employment and Support for Work-Family Reconciliation shall be revised as follows:
"Minister of Labor" in Article 5 (1) and (2), Article 9, parts other than each subparagraph of Article 17 (1), Article 20, parts other than each subparagraph of Article 21, Article 22 (2) and the attached Table shall be changed to "Minister of Employment and Labor".

"Head of a regional labor office" in parts other than each subparagraph of Article 21 shall be changed to "head of a regional employment and labor office".

(53) through (136) Omitted.

[Table] *<Amended on Jul. 12, 2010>*

Criteria for Imposition of Fine for Negligence by Type of Offense

(relating to Article 22 (1) of the Decree)

Offense	Provision	Amount
1. Where an employer commits sexual harassment at work in violation of Article 12 of the Act	Article 39 (1) of the Act	
A. Where a person who has previously been punished by a fine for negligence in the past three years in connection with sexual harassment at work commits sexual harassment at work again		10 million won
B. Where a person commits sexual harassment at work against one person several times or against two people or more		5 million won
C. Other cases where a person commits sexual harassment at work		3 million won
2. Where an employer fails to take a disciplinary measure or any other equivalent action, without delay, against the harasser although an occurrence of sexual harassment at work has been verified, in violation of Article 14 (1) of the Act	Article 39 (2) 1	4 million won
3. Where an employer dismisses or takes any other disadvantageous measure against a worker on account of a claim	Article 39 (2) 2	5 million won

for any damage from sexual harassment by the client, etc., or of disregard for sexual demands from the client, etc., in violation of Article 14-2 (2) of the Act		
4. Where an employer fails to grant three-day leave although a worker has requested leave on grounds of his spouse's giving birth, in violation of Article 18-2 (1) of the Act	Article 39 (2) 3	5 million won
5. Where an employer fails to permit working hours to be reduced for a period of childcare and fails to notify the relevant worker of the reason in writing or fails to consult with the relevant worker whether to support him/her through use of childcare leave or other measures, in violation of Article 19-2 (2) of the Act	Article 39 (2) 4	4 million won
6. Where an employer fails to determine, in writing, the working conditions of a worker whose working hours have been reduced for a period of childcare, in violation of Article 19-3 (2) of the Act	Article 39 (2) 5	4 million won
7. Where an employer fails to provide education to prevent sexual harassment at work in violation of Article 13 (1) of the Act	Article 39 (3) 1	2 million won
8. Where an employer fails to submit an implementation plan in violation of Article 17-3 (1) of the Act	Article 39 (3) 2	3 million won

9. Where an employer fails to submit a report on the current status of employment of male and female workers or submits a false report in violation of Article 17-3 (2) of the Act	Article 39 (3) 3	3 million won
10. Where an employer fails to submit performance results or submits false performance results in violation of Article 17-4 (1) of the Act (excluding the cases where the person who has submitted an implementation plan in accordance with Article 17-3 (3) of the Act fails to submit the performance results)	Article 39 (3) 4	3 million won
11. Where an employer fails to cooperate actively in all the procedures, such as preparation and confirmation of relevant documents, etc., in violation of Article 18 (4) of the Act	Article 39 (3) 5	2 million won
12. Where an employer refuses to submit reports or relevant documents under Article 31 (1) of the Act or submits false reports or documents	Article 39 (3) 6	2 million won
13. Where a person refuses, obstructs or evades an inspection under Article 31 (1) of the Act	Article 39 (3) 7	2 million won
14. Where an employer fails to keep relevant documents for three years, in violation of Article 33 of the Act	Article 39 (3) 8	2 million won

Note : The Minister of Employment and Labor may increase or reduce the amount of fine for negligence to be imposed by up to half thereof after taking into consideration the motive and consequences, etc., of the offense. In this case, the total amount of fine for negligence shall not exceed the maximum amount of fine for negligence prescribed in the respective provisions of Article 39 (1) through (3) of the Act.