

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

(Law No. 113 of July 1, 1972)

(Tentative translation by the specialist)

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Law No. 78 of Dec. 2, 1983

Law No. 45 of June 1, 1985

Law No. 76 of May 15, 1991

Law No. 107 of June 9, 1995

Law No. 92 of June 18, 1997

Law No. 87 of July 16, 1999

Law No. 104 of July 16, 1999

Law No. 160 of Dec. 22, 1999

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CHAPTER I
GENERAL PROVISIONS

(Purposes)

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

(Basic Principle)

Article 2. The basic principle of this Law is that women workers be enabled to engage in a full working life, with due respect for their maternity but without discrimination based on sex.

2. Employers, the State and local public bodies shall, in compliance with the basic principle set forth in the preceding paragraph, endeavor to promote the full working life of women workers.

(Educational Campaigns)

Article 3. The State and local public bodies shall conduct the necessary educational campaigns to increase public interest and understanding in regard to the securing 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. The Minister of Health, Labour and Welfare shall formulate a basic policy concerning measures in connection with the securing 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:

- (1) matters relating to trends in women workers' working life; and
- (2) basic matters concerning the measures to be taken with regard to the securing 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 women workers.

4. The Minister of Health, Labour and Welfare, in formulating the Basic Policy on Measures for Equal Employment Opportunities for Men and Women, shall consult the Labour 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, Labour and Welfare shall publish the outline thereof without delay.

6. The provisions of paragraphs 4 and 5 above apply *mutatis mutandis* to amendments to the Basic Policy on Measures for Equal Employment Opportunities for Men and Women.

CHAPTER II
SECURING OF EQUAL OPPORTUNITY AND TREATMENT BETWEEN MEN AND
WOMEN IN EMPLOYMENT

Section I
Prohibition of Discrimination Against Women Workers, Etc.

(Recruitment and Hiring)

Article 5. With regard to the recruitment and hiring of workers, employers shall provide women equal opportunity with men.

(Assignment, Promotion, and Training)

Article 6. With regard to the assignment, promotion, and training of workers, employers shall not discriminate against a woman worker as compared with a man by reason of her being a woman.

(Fringe Benefits)

Article 7. With regard to loans for housing and other similar fringe benefits as provided by ordinance of the Ministry of Health, Labour and Welfare, employers shall not discriminate against a woman worker as compared with a man by reason of her being a woman.

(Mandatory Retirement Age, Retirement, and Dismissal)

Article 8. With regard to the mandatory retirement age and dismissal of workers, employers shall not discriminate against a woman worker as compared with a man by reason of her being a woman.

2. Employers shall not stipulate marriage, pregnancy or childbirth as a reason for the retirement of women workers.

3. Employers shall not dismiss a woman worker by reason of marriage, pregnancy or childbirth, or for having taken a leave as stipulated in Article 65, paragraph 1 or 2, of the Labour Standards Law (Law No. 49 of 1947).

(Exception Relating to Measures Associated with Women Workers)

Article 9. The provisions of Articles 5 through 8 above shall not prevent 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.

(Guidelines)

Article 10. The Minister of Health, Labour and Welfare shall formulate guidelines that are necessary for the purpose of employers dealing appropriately with the matters provided for in Articles 5 and 6 (referred to as "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 phrase "shall consult such deliberative council as shall be provided for by Cabinet Order and request the opinions of the prefectural governors" contained in Article 4, paragraph 4 shall be read as "shall consult such deliberative council as shall be provided for by Cabinet Order."

(Voluntary Settlement of Complaints)

Article 11. Employers shall, when a complaint is submitted by a woman worker concerning a matter stipulated in Articles 6 to 8, endeavor to achieve a voluntary settlement by such means as referring said complaint to a grievance body (which is a body for resolving complaints from the workers of the establishment, composed of representatives of the employer and representatives of the workers of the establishment concerned).

(Assistance in the Settlement of Disputes)

Article 12. The Prefectural Labour Director may, when asked either by a woman worker or an employer (hereinafter referred to as the "Parties Concerned") or by both of them for assistance to settle a dispute between them in respect of such employers' measures relating to equal opportunity and treatment between men and women in employment, as provided by ordinance of the Ministry of Health, Labour and Welfare, give any necessary advice or guidance or make any necessary recommendation to the Parties Concerned.

2. Employers shall not dismiss or otherwise treat a woman worker at a disadvantage by reason of said woman worker requesting the assistance provided for in the preceding paragraph.

(Referral for Mediation)

Article 13. The Prefectural Labour Director shall refer to the Equal Opportunity Mediation Commission for Mediation a dispute provided for in paragraph 1 of the preceding Article (except for a dispute on matters provided for in Article 5) when either one or both of the Parties Concerned apply for Mediation and the Director considers Mediation necessary to settle said dispute.

2. The provisions of paragraph 2 of the preceding Article shall apply *mutatis mutandis* to the case in which a woman worker applies for Mediation as provided for in the preceding paragraph.

Section II

Equal Opportunity Mediation Commission

(Establishment)

Article 14. An Equal Opportunity Mediation Commission (hereinafter referred to as the "Commission") shall be established at each Prefectural Labour Office.

2. The Commission is the body which conducts the Mediation referred to in paragraph 1 of the preceding Article (hereinafter referred to in this section as "Mediation").

(Organization)

Article 15. The Commission shall consist of three commissioners.

2. The commissioners shall be appointed by the Minister of Health, Labour and Welfare from among persons of learning and experience.

(Mediation)

Article 16. When, based upon the application of the Parties Concerned, the Commission finds it necessary, it shall hear the views on the case in question of the representative(s) of the

worker(s) concerned or the representative(s) of the employer(s) concerned who is/are nominated by the main organizations of workers or employers in the jurisdictional area of the Prefectural Labour Office where said Commission is established.

Article 17. The Commission may prepare a proposal for Mediation and recommend its acceptance to the Parties Concerned.

Article 18. The Commission may, when it finds it necessary in order to resolve a case pending before it, ask governmental agencies concerned for necessary cooperation such as the provision of data.

(Regulation by Ordinance of the Ministry of Health, Labour and Welfare)

Article 19. Necessary matters concerning the Commission and the procedures for Mediation other than those provided for in this section shall be provided for by ordinance of the Ministry of Health, Labour and Welfare.

Section III

Governmental Support for Measures to be Taken by Employers

Article 20. In the event that employers, in order to promote the securing of equal opportunity and treatment between men and women in employment, take or seek to take any of the following measures with the purpose of improving the circumstances preventing the securing of equal opportunity and treatment between men and women in employment, the State may give consultation and other assistance to said employers:

- (1) Analysis of the assignments and other employment-related circumstances of the employers' women workers;
- (2) Preparation, based on the analysis referred to in the previous numbered item, of plans concerning measures necessary in improving circumstances that prevent the securing of equal opportunity and treatment between men and women in employment;
- (3) Implementation of the measures provided for in the plans referred to in the previous numbered item; and
- (4) Establishment of systems necessary to implement the measures referred to in the previous three numbered items.

CHAPTER III

MEASURES FOR CONSIDERATION CONCERNING THE EMPLOYMENT OF WOMEN WORKERS

(Employment Management Considerations Concerning Problems Caused by Sexual Speech and Behavior in the Workplace)

Article 21. Employers shall give necessary consideration from the viewpoint of employment management so that women workers they employ do not suffer any disadvantage in their working conditions by reason of said women workers' responses to sexual speech and behavior in the workplace and their working environments do not suffer any harm due to said sexual speech and behavior.

2. The Minister of Health, Labour and Welfare shall formulate guidelines with regard to the matters for employers' consideration based on the provisions of the preceding paragraph (referred to as "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 phrase "shall consult such deliberative council as shall be provided for by Cabinet Order and shall request the opinions of the prefectural governors" contained in Article 4, paragraph 4 shall be read as "shall consult such deliberative council as shall be provided for by Cabinet Order."

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

Article 22. Employers shall, as provided by ordinance of the Ministry of Health, Labour and Welfare, secure the necessary time off so that women workers they employ may receive the health guidance and medical examinations prescribed in the Maternal and Child Health Law (Law No. 141 of 1965).

Article 23. Employers shall take the necessary measures, such as alteration of working hours and lightening of jobs, 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. With respect to the measures that employers must take based on the provisions of the preceding paragraph, the Minister of Health, Labour and Welfare shall determine necessary guidelines in order to promote their appropriate and effective implementation (referred to as "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 phrase "shall consult such deliberative council as shall be provided for by Cabinet Order and request the opinions of the prefectural governors" contained in Article 4, paragraph 4 shall be read as "shall consult such deliberative council as shall be provided for by Cabinet Order."

CHAPTER IV

MISCELLANEOUS PROVISIONS

(Investigations, Etc.)

Article 24. The Minister of Health, Labour and Welfare shall implement necessary investigative research concerning the working lives of women workers.

2. The Minister of Health, Labour and Welfare may, with respect to the enforcement of this Law, ask the director of governmental agencies concerned for necessary cooperation such as the provision of data.

3. The Minister of Health, Labour and Welfare may, with respect to the enforcement of this Law, request needed investigative reports from the prefectural governors.

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

Article 25. The Minister of Health, Labour and Welfare may, when he finds it necessary with respect to the enforcement of this Law, request reports of employers and give said employers advice, guidance, and recommendations.

2. Part of the authority of the Minister of Health, Labour and Welfare provided for in the preceding paragraph may be entrusted to the Prefectural Labour Director, based on ordinance of the Ministry of Health, Labour and Welfare.

(Publication)

Article 26. In the event that an employer is in violation any of the provisions of Articles 5 through 8. and the Minister of Health, Labour and Welfare has given a recommendation based on the provisions of paragraph 1 of the preceding article, but the employer has not complied with it, the Minister of Health, Labour and Welfare may make a public announcement to that effect.

(Exception for Seafarers)

Article 27. With respect to the seafarers and persons seeking to become seafarers provided for in Article 6, paragraph I of the Seafarer's Employment Security Act (No. 130 of 1948), the readings of certain phrases of this law shall be changed as follows. The phrase "Minister of Health, Labour and Welfare" contained in the following provisions shall be read as "Minister of Land, Infrastructure and Transport": Article 4, paragraphs 1, 4, and 5 (including cases in which the aforementioned is/are applied mutatis mutandis to Article 4, paragraph 6; Article 10, paragraph 2; Article 21, paragraph 3; and Article 23, paragraph 3); Article 10, paragraph 1; Article 21, paragraph 2; Article 23, paragraph 2; and Articles 24, 25, and 26. The phrase "the Labour Policy Council" contained in article 4, paragraph 4 (including cases in which the aforementioned is applied mutatis mutandis to Article 4, paragraph 6; Article 10, paragraph 2; Article 21, paragraph 3; and Article 23, paragraph 3) shall be reads as "Seafarers' Central Labour Commission." The phrase "ordinance of the Ministry of Health, Labour and Welfare" contained in the following provisions shall be read as "ordinance of the Ministry of Land, Infrastructure and Transport": Article 7; Article 12, paragraph 1; Article 22; and Article 25, paragraph 2. The phrase "having taken a leave as stipulated in Article 65, paragraph 1 or 2 of the Labour Standards Law (Law No. 49 of 1947)" contained in Article 8, paragraph 3 shall be read as "having been absent from work as stipulated in Article 87, paragraph 1

or 2 of the Seafarers Law (Law No. 100 of 1947)." The phrase "Prefectural Labour Director" contained in the following provisions shall be read as "Direct Transport Bureau Chief (including Director of Marine Transport Control Department)": Article 12, paragraph 1; Article 13, paragraph I; and Article 25, paragraph 2. The phrase "refer to the Equal Opportunity Mediation Commission for Mediation" contained in Article 13, paragraph 1 shall be read as "refer to the Seafarers' District Labour Commission for Mediation."

2. The provisions of Chapter II, section II shall not apply with regard to the Mediation conducted by the Seafarers' District Labour Commission upon the referral provided for in the provisions of Article 13, paragraph 1 as said provision is read in the preceding paragraph.

3. Matters for the Mediation referred to in the preceding paragraph shall be managed by a consultative body composed of three members nominated from among neutral members by the chairman of said Seafarers' District Labour Commission. In such case, when, based upon the application of the Parties Concerned, said consultative body finds it necessary, it shall hear the views on the case in question of the members who are nominated by the chairman of said Seafarer' District Labour Commission from among the employer [members] and worker members.

4. The provisions of Articles 17 through 19 shall apply mutatis mutandis to the Mediation referred to in paragraph 2. In such case, the readings of certain phrases of this law be changed as follows. The "Commission" referred to in Articles 17 and 18 shall be read as "Seafarers' District Labour Commission." Regarding certain phrases in Article 19, "this section" shall be read as "Article 27, paragraph 3"; "Commission" shall be read as "consultative body"; "ordinance of the Ministry of Health, Labour and Welfare" shall be read as "Rules of the Seafarers' Central Labour Commission."

(Exclusions)

Article 28. The provisions of Chapter II and of Articles 25 and 26 shall not apply to members of the national civil service or local civil service. The provisions of Chapter III shall not apply with respect to: national civil servants in the regular government service (except personnel referred to in Article 2, item 4 of the Law Concerning the Labor Relations of National Enterprises and Specified Independent Administrative Institutions (Law No. 257 of 1948); court personnel to whom the Law on Temporary Measures for Court Personnel (Law No. 299 of 1951) applies; National Diet personnel to whom the National Diet Personnel Law (Law No. 85 of 1947) applies; and members prescribed in Article 2, paragraph 5 of the Self Defense Forces Law (Law No. 165 of 1954).

SUPPLEMENTARY PROVISIONS

(Date of Enforcement)

Article 1. This law shall come into force from April 1, 1999. However, the provisions of the following items shall come into force from the dates set forth in said items.

(Items 1 and 2 omitted.)