

5. Promotion of Gender Equality in the Field of Work

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

Prohibition of gender discrimination

- Prohibition of gender discrimination during all stages of employment and management (Articles 5 and 6)
- Prohibition of gender discrimination in terms of recruitment and hiring, assignment (including allocation of work and authority), promotion/demotion, education and training, provision of certain social benefits, change in the types of work and employment styles, encouraging resignation, retirement age/dismissal, renewal of a labour contract
- Prohibition of indirect discrimination (Article 7)
- Among non-gender-based requirements, those that may lead to gender discrimination as provided by the ordinance of the Ministry of Health, Labour and Welfare are prohibited, unless there are reasonable grounds to apply such requirements

[Examples of indirect discrimination included in the ordinance of the Ministry of Health, Labour and Welfare]

- Requiring certain physical height or weight in recruitment and hiring
- Requiring nationwide mobility in recruitment and hiring for main career track
- Requiring past experience of transfers involving changes of residence for promotion
- * Requirements not included in the Ministerial ordinance are not in breach of the Equal Employment Opportunity Law, but may be judged as “indirect discrimination” and declared “illegal” by the court.
- Exception relating to measures associated with female workers (Article 8)
- While discriminatory treatment on the basis of gender is prohibited in principle, Article 8 provides that measures solely for female workers to eliminate gaps which in fact exist at the workplace between male and female workers as well as preferential measures for female workers are not against the law.

Prohibition of disadvantageous treatment by reason of pregnancy or childbirth (Article 9)

- Provisions for marriage, pregnancy or childbirth as a reason for retirement are prohibited
- Dismissal of a female worker by reason of marriage is prohibited
- Dismissal or disadvantageous treatment by reason of taking a maternity leave by other reasons provided by ordinance of the Ministry of Health, Labour and Welfare is prohibited
- Dismissal within a year of pregnancy or childbirth will be null and void, unless business owners can prove that dismissal is not by reason of pregnancy, etc.

Measures against sexual harassment (Article 11)

- Place obligations on business owners to take necessary measures to prevent sexual harassment at work

Measures for maternity protection (Articles 12 and 13)

- Place obligations on business owners to take necessary measures, to secure time for female workers to receive health guidance and have medical check-up during pregnancy and postnatal period, and to put a structure in place to allow these workers to observe instructions based on such guidance and check-up

Assistance from the national government for implementation of positive action measures (Article 14)

- Consultation and other assistance will be provided by the national government for business owners taking positive action measures for eliminating the gap which in fact exists between male and female workers

Remedial measures for settlement of disputes between workers and business owners

- Voluntary settlement of complaints with in a corporation on a voluntary basis (Article 15)
- Assistance by the Director of the prefectural Labour Bureau for dispute settlement (Article 17)
- Mediation by the Disputes Adjustment Commission (Articles 19 - 27)
- Mediation procedures will be invoked by application from either one or both of the parties to said dispute.
- Disadvantageous treatment by reason of requesting the assistance and/or application for mediation to the Director of the prefectural Labour Bureau is prohibited

Guidance if necessary for enforcement of this Act

- Collection of reports and issuing advice, guidance and recommendations by the Minister of Health, Labour and Welfare or by the Director of the prefectural Labour Bureau (Article 29)
- Public announcement of those corporations that have not complied with a recommendation by the Minister of Health, Labour and Welfare (Article 30)
- Fine of up to JPY 200,000.00 to be imposed on business owners refusing to respond to a request for a report or making a false report (Article 33)

Focus of the Labour Standards Law (related to issues for female workers)

Principle of equal wages for men and women (Article 4)

- Discriminatory treatment of a woman as compared with a man with respect to wages by reason of the worker being a woman is prohibited

Perinatal leave and other measures for maternity protection

- o Limitation on dangerous and injurious work for pregnant women, etc. (Article 64.3)
- Limitation on the employment of a pregnant woman for certain types of work which may have harmful effects on pregnancy, childbirth and child-rearing; limitation on the employment of a woman who is not pregnant for certain types of duties which may have harmful effects on her reproductive function
- o Perinatal leave (Article 65)
- Limitation in principle on the employment of a pregnant woman within six weeks (or within 14 weeks in the case of multiple births) when requested by such person, or within eight weeks after childbirth; necessity of transferring a pregnant woman to other light duties if she so requests
- o Application of flexible working hours for a pregnant woman and limitation of overtime work, work on a day-off and night work (Article 66)
- Application of flexible working hours and limitation on overtime work, work on a day-off and night work, if requested by a pregnant woman
- o Time for childcare (Article 67)
- A woman raising an infant under the age of one full year may request 30 minutes for infant care twice each day.

Ban on underground labor and other measures for female workers

- o Ban on underground labor (Article 64.2)
- Limitation on the employment of a woman, with regard to duties to be carried out by a pregnant woman and a parturient woman (limited only to those declaring themselves as such) as well as work specified by ordinance of the Ministry of Health, Labour and Welfare
- o Measures for women if work during menstrual periods would be especially difficult (Article 68)
- Limitation on employment during her menstrual periods, if a women for whom work during such periods would be especially difficult has requested leave

Summary of the Revised Part-time Worker Labour Law

Establishment of workplace rules corresponding to progress in diversification of employment styles

1. Obligation to provide a written statement of employment conditions and provide explanation

Place obligations to provide a statement of conditions of employment in writing, etc.

2. Promotion of observation of balanced treatment (establishment of decision rules to take account of work and contributions)

- (1) Place obligations to take measures to guarantee all part-time workers balanced treatment in comparison with regular workers, etc.
- (2) Especially, prohibit discriminatory treatment for part-time workers equivalent to regular workers

3. Promotion of transfer of part-time workers to regular workers

Place obligations to take measures to promote a transfer of part-time workers to regular workers

4. Assistance for claim handling / dispute settlement

- (1) Place obligations to make efforts to resolve claims on a voluntary basis
- (2) Set up a framework for the government-led alternative dispute resolution (mediation, etc.)



Ensure fair treatment,
increase labor productivity

Enforcement date: 1 April 2008