

[7] Equal Employment and Child Welfare

Measures to Ensure Equal Opportunity and Treatment between Males and Females in Employment

Overview

Outline of Measures to Ensure Equal Opportunity and Treatment between Males and Females in Employment

The Equal Employment Opportunity Act prohibits discrimination against female workers in terms of recruitment, hiring, assignment, promotion, training, fringe benefits, mandatory retirement age, retirement, resignation and dismissal.

The Equal Employment office of the Prefectural Labour Bureau offers administrative guidance to businesses in order to ensure full compliance with the Equal Employment opportunity Act, and provides consultation to female workers. The office gives assistance to female workers who have disputes with their employers by providing advice, guidance, and recommendation in the name of the director-general of the office and by helping them settle the conflicts individually through the Equal Opportunity Mediation Conference, an intermediary organization.

The table below shows the numbers of cases the Equal Employment Office of the Prefectural Labour Bureaus provided consultation and guidance to correct employment management systems.

Points of the Equal Employment Opportunity Act

Prohibition of Discrimination on the Basis of Sex
<ul style="list-style-type: none"> ○ Prohibition of discrimination on the basis of sex at each stage of employment management (Articles 5 and 6) <ul style="list-style-type: none"> • Egender discrimination shall be prohibited in recruitment, employment, assignment (including allocation of duties and grant of authority), promotion, demotion, training, specified welfare program, change in job type and employment status, encouragement of retirement, mandatory retirement age, dismissal, and renewal of the labor contract ○ Prohibition on indirect discrimination (Article 7) <ul style="list-style-type: none"> • Taking measures which 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 is prohibited except in a case where there is a legitimate reason to take such measures. [Measures specified by Ordinance of MHLW] <ul style="list-style-type: none"> ○ To require workers' height, weight, and physically strength when recruiting and employing workers ○ To require changing residences as a condition for recruitment or acceptance of "managerial posts" under occupation-based employment management ○ To require experience of transfer when promoting workers * Although acts other than those specified by ministerial ordinances do not constitute violation of the Equal Employment Opportunity Act, they may possibly judged as indirect discrimination in trial. ○ Special provisions of measures pertaining to female workers (Article 8) <ul style="list-style-type: none"> • While prohibiting discriminatory treatment in principle due to sex, employers are not precluded from taking measures toward females only with the purpose of removing difference actually existing between males and females in employment.
Prohibition, etc. of Disadvantageous Treatment by Reason of Marriage, Pregnancy, Childbirth, etc. (Article 9)
<ul style="list-style-type: none"> • Prohibition on stipulating marriage, pregnancy, or childbirth as a reason for retirement of women workers • Prohibition on dismissal due to marriage • Prohibition on dismissal or give disadvantageous treatment by the reasons of pregnancy, childbirth, acquisition of maternity leave, or other reasons provided by ministerial ordinance of MHLW. • Dismissal of women workers who are pregnant or in the first year after childbirth shall be void unless the employers prove that dismissals are not by reasons of pregnancy, etc.
Measures concerning sexual harassment (Article 11)
<ul style="list-style-type: none"> • Obligating employers to take necessary measures in terms of employment management to prevent sexual harassment in the workplaces
Measures for maternal health management (Articles 12, 13)
<ul style="list-style-type: none"> • Obligating employers to secure the necessary time off so that pregnant or female workers, during pregnancy or after childbirth, may receive the health guidance and medical examinations and necessary measures to enable the female workers to comply with the directions they receive based on the health guidance and medical examinations.

Support for positive action by the government (Article 14)

- Consultation and other supports may be provided by the government for employers that take active efforts (positive action) so as to remove difference actual existing between males and females in employment

Relief measures for the cases of disputes between workers and employers

- Voluntary resolution of complaints from the workers of the workplace (Article 15)
- Assistance in the resolution of disputes by the directors of Prefectural Labor Offices (Article 17)
- Conciliation at the Equal Opportunity Conciliation Conference (Articles 19 through 27)
 - Conciliation shall be commenced upon application from either party or both parties involved in the dispute.
 - Prohibition on disadvantage treatment by reasons of making requests to the Head of Bureau of labour or conciliation application, etc.

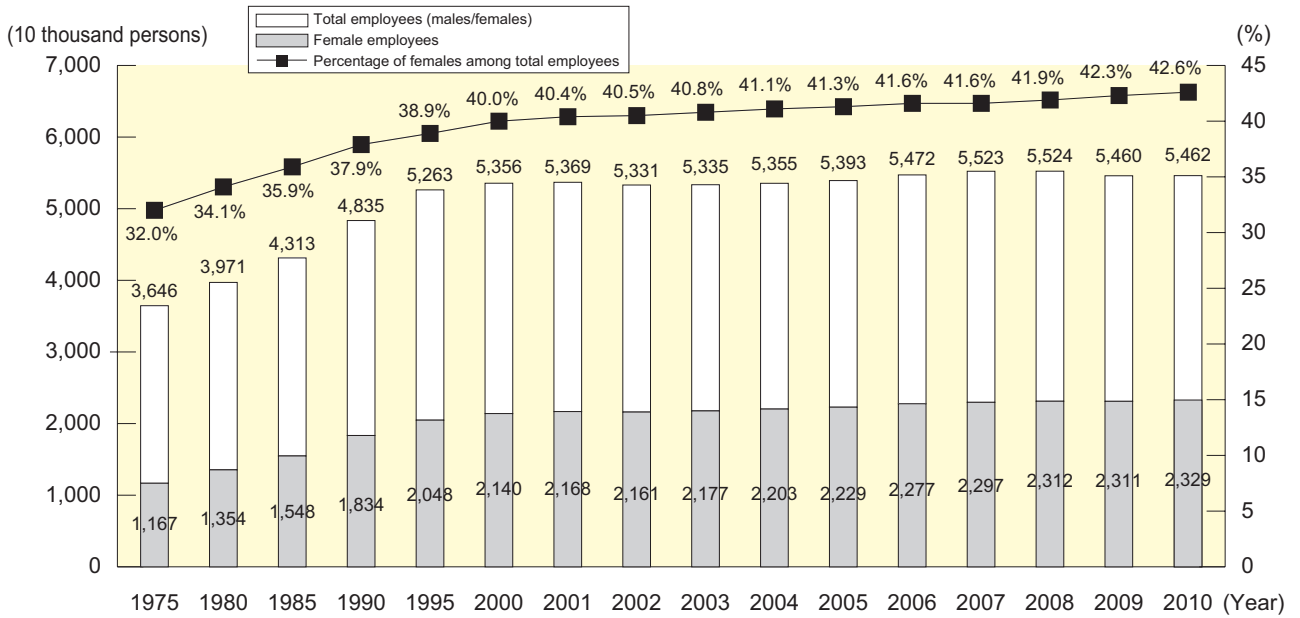
Guidance necessary for law enforcement

- Request for reports and provision of advice, guidance, and recommendations by the Minister of Health, Labour and Welfare or the directors of Prefectural Labor Offices (Article 29)
- Public announcement of names of enterprises that do not comply with the recommendations of the Minister of Health, Labour and Welfare (Article 30)
- Civil fine of not more than ¥200,000 yen in case of not making a required report or making a false report (Article 33)

* Prohibition on disadvantage treatment for the reasons of pregnancy or child, etc., and obligation on sexual harassment prevention and maternal health management also apply to enterprises to which workers are dispatched (Article 47-2 of the Worker Dispatching Act)

Detailed Data 1

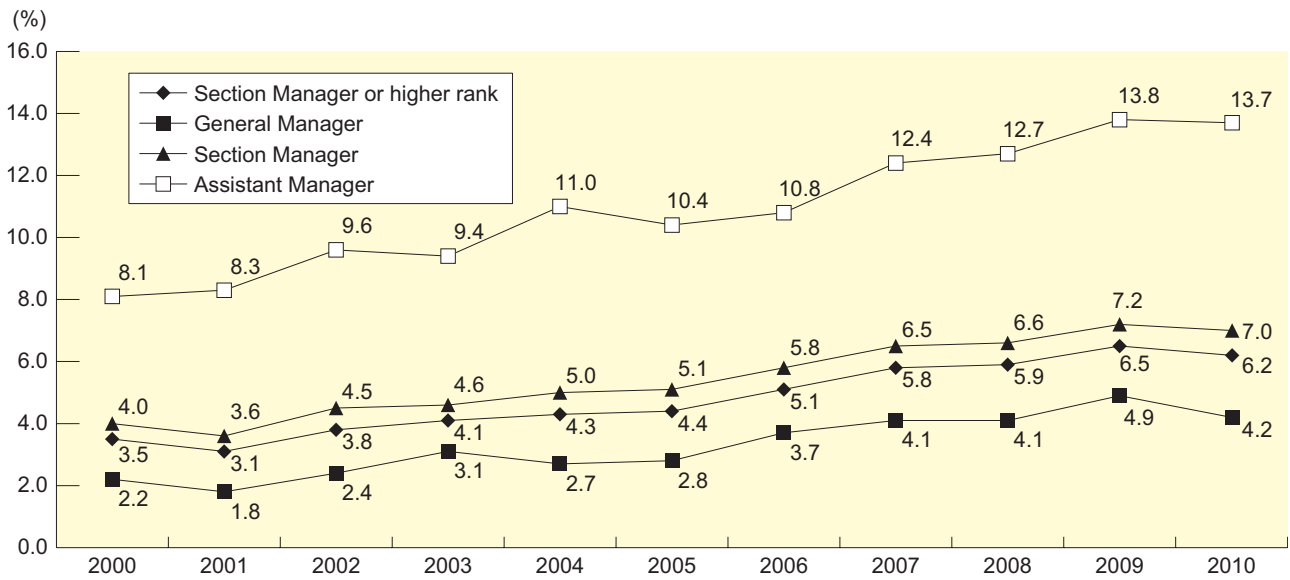
Changes in Number of Employees (all industries)



Source: "Labour Force Survey", Statistics Bureau, MIC

Detailed Data 2

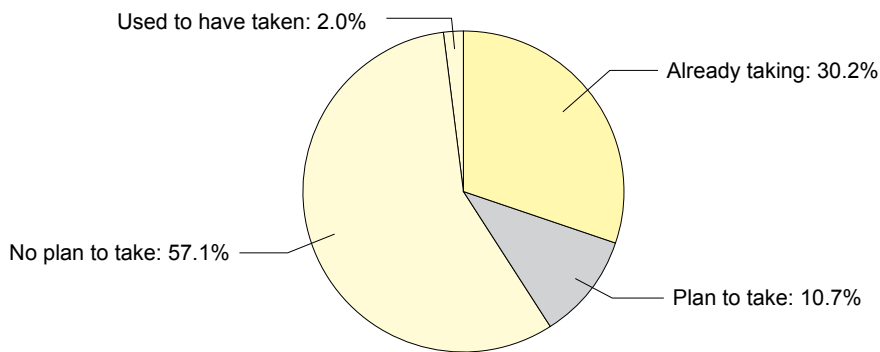
Changes in Percentage of Females in Managerial Posts



Source: "Basic Survey on Wage Structure", MHLW

Detailed Data 3

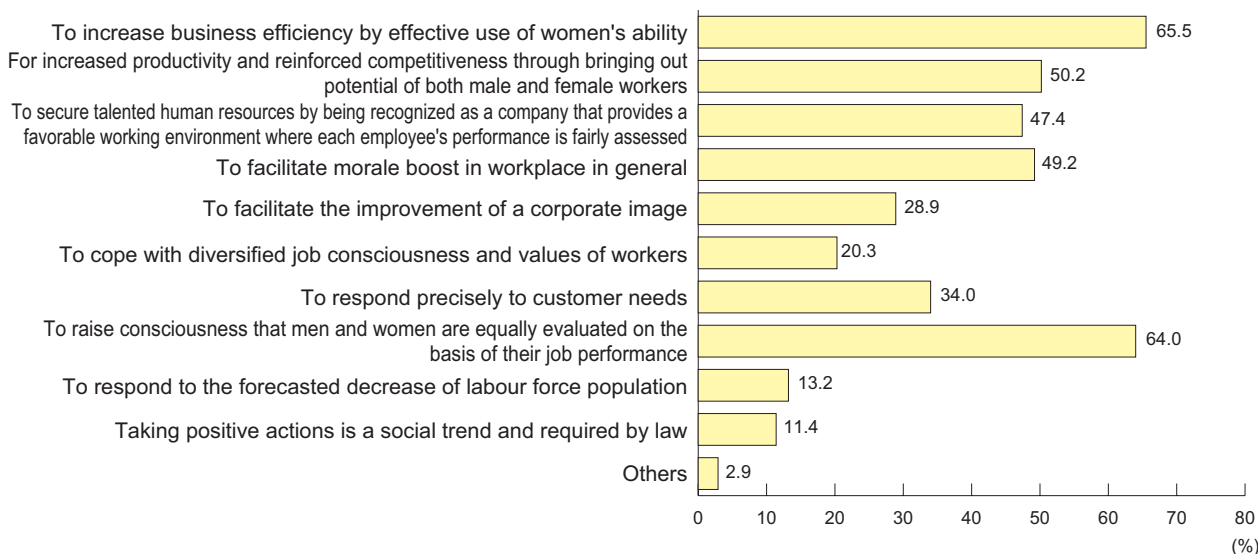
Companies that Take Positive Actions



Source: "FY2009 Basic Survey of Gender Equality in Employment Management", Equal Employment, Children and Families Bureau, MHLW

Detailed Data 4

Percentage of Enterprises by Reason Why Promotion of Positive Actions is Required



Source: "FY2009 Basic Survey of Gender Equality in Employment Management", Equal Employment, Children and Families Bureau, MHLW