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## Outline of the Equal Employment Opportunity Act

### 1 In all work management, discrimination on the basis of sex is prohibited (Article 5 and 6)

With regard to recruitment, employment, assignment (including allocation of duties and grant of authority), promotion, demotion, training of workers, fringe benefits of a certain scope (\*), change in job type or employment status of workers, encouragement of retirement, mandatory retirement age, dismissal, and renewal of the labor contract employers shall not discriminate against workers on the basis of sex.

(\*) The fringe benefit scope is broken down into the following five areas.

- (1) The lending of housing fund
- (2) The lending of funds for living expenses, funds for education expenses and other funds for the purpose of promoting workers' welfare
- (3) Regular payment of moneys for the purpose of promoting workers' welfare
- (4) Payment of moneys for the purpose of asset formation by the workers
- (5) The lending of housing.

#### <Examples of prohibited discriminations>

- **Excluding only males or female applicants from eligibility for recruitment or hiring**  
For instance: Hiring only men for sales and women for administrative jobs.  
Hiring men as full-time employees and women as part-timers.
- **Excluding male or female workers from eligibility for assignment to a specific duty**  
For instance: Assigning men to external operations and women to internal operations.  
A staffing operator sending out only male or female workers.
- **Excluding male or female workers from being eligible for a change in job type.**  
For instance: Excluding only female workers from being eligible for a change in Job Type due to marriage.
- **Setting different conditions for promotion to certain positions depending on sex**  
Denying female workers the opportunity to attain Promotion beyond a certain level due to having reached a given age.
- **Setting different conditions for the provision of employee benefits for male and female workers.**  
For instance: Excluding only female workers from receiving the lending of company housing due to marriage.
- **Treating male and female workers differently with regard to a change in employment status.**  
For instance: In cases where the status of some regular employees is changed to that of part-time worker for in order to streamline management, forcing all female workers who are regular employees to change their Employment Status to that of a part-time worker. .
- **Giving preference to male or female workers when encouraging resignation.**  
For instance: Encouraging female workers to resign before male workers.

### 2 Three cases of indirect discrimination are prohibited (Article 7)

Indirect discrimination on the basis of sex in employment means 1. to take measures with a prerequisite concerning conditions other than the person's sex, but 2. that may cause considerably disadvantageous treatment against members of a particular sex in comparison to members of the other sex, 3. in cases where there is no legitimate reason to take such measures.. An ordinance by the Ministry of Health, Labour and Welfare defines the following three cases as indirect discrimination and prohibits them unless there is legitimate reason to take such measures.

- (1) Measures which concern the recruitment or employment of workers and which apply criteria concerning the worker's height, weight or physical strength.
- (2) Measures which concern the recruitment, employment, promotion or change in job type of workers and which apply criteria concerning the worker's ability to receive reassignment that results in the relocation of the worker's residence.

(3) Measures which concern the promotion of workers and which apply criteria concerning the worker's experience of having been reassigned to a workplace other than the workplace where the worker had formerly worked.

### 3 In some special cases, women can be prioritized (Article 8)

Measures for women or measures that are advantageous to women (positive actions) taken by the employer to correct the actual gender gap seen in the workplace to establish equal opportunities and treatment for men and women do not violate the law.

- \* If the ratio of female workers falls below 40% of the entire workforce with regard to recruitment and employment for certain work divisions, job assignment, and promotion to managerial positions, a gender gap is considered to exist.
  - \* A goal to improve the situation caused by conventional practices and awareness on job roles assigned to a specific gender must be established before ensuring measures for women only or measures that are advantageous for women.
- Also, even if the ratio of female workers falls below 40% of the entire number of workers, if measures are taken simply to give women an advantage or provide better treatment to women, it would be a violation.

### 4 Disadvantageous treatment by reason of marriage, pregnancy, childbirth, etc. is prohibited (Article 9)

Employers are prohibited from the following behavior.

- (1) To stipulate marriage, pregnancy or childbirth as a reason for retirement of women workers.
- (2) To dismiss women workers for marriage.
- (3) To give disadvantageous treatment to women workers by the reasons as provided by Ordinance of the Ministry of Health, Labor and Welfare.

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 of marriage, pregnancy, childbirth, etc.

An employer shall not dismiss or otherwise treat a worker disadvantageously due to said worker making a childcare leave application or taking childcare leave.

#### For instance: if, for the following reasons

- Pregnancy or childbirth
- Taking time off work for health examinations during pregnancy
- Taking time off for morning sickness or possible miscarriage
- Taking leave before or after childbirth
- Taking childcare Leave or caregiver leave



#### If you are treated like this, it would be illegal.

- You were dismissed
- Your contract was not renewed
- You were forced to take a part-time position
- You had to take a pay cut
- You were transferred in a very unusual manner

## 5 Employment management measures concerning problems caused by sexual harassment and maternity harassment in the workplace (Article 11, 11-2)

Employers shall establish necessary measures in terms of employment management to give advice to workers and take other necessary measures, to prevent workplace sexual harassment and maternity harassment.

\*Harassment prevention measures associated with childcare leave, etc. are described in the Act on Childcare Leave, Caregiver Leave, and Other Measures for the Welfare of Workers Caring for Children or Other Family Members.

\*Being treated unfairly for consulting with the contact for consultation is prohibited.

### Sexual harassment examples

- In a car on a business trip, the boss touched the waist or chest of the female subordinate, but since she resisted, the boss assigned her to a disadvantageous post.
- At the office, the director was always publicly mocking sexual issues about an employee, but since the employee objected, the director dismissed the employee.
- The boss often touched the hips of the female subordinate in the workplace corridor and elevators, so the subordinate has been feeling dispirited about work.
- A colleague has spread sexual rumors internally and to clients about a worker, so the worker cannot concentrate on work.

### Pregnancy and childbirth harassment examples

- Because I am taken off of standing work since I am pregnant, a colleague keeps me out of the loop saying "It is unfair you always get to work sitting down!" I cannot focus on my work.
- A senior colleague repeatedly tells me that I am selfish to get pregnant immediately after joining the company and take childbirth and childcare leave. I am extremely demoralized.

## 6 Employers must establish measures in connection with health care during pregnancy and after childbirth. (Article 12, 13)

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 (Article 12) and take necessary measures in order to enable the women workers they employ to comply with the directions they receive based on the health guidance and medical examinations (Article 13).

### <Measures required for the maternal health management of female workers>

- Employers must secure the necessary time off so that women workers they employ may receive health guidance and medical examinations periodically as follows.

[During pregnancy]	Up to the 23 <sup>rd</sup> week in pregnancy	Once every 4 weeks
	From week 24 to 35 in pregnancy	Once every 2 weeks
	From week 36 of pregnancy to childbirth	Once a week

- \* If physicians or midwives (hereafter "the physician") instruct otherwise, enough time off must be secured in accordance with that instruction.

#### [For 1 year after childbirth]

In the event that the physician instructs her to receive health guidance or medical examinations, the employer shall secure said necessary time in accordance with these instructions.

- If a pregnant or postnatal female worker receives medical guidance or examinations and further instructions from the physician, the employer shall ensure a work hour change, reduce work, or take other required measures.
  - Reduce commuting time during pregnancy (delayed or advanced attendance, shortened work hours, change of commuting means or routes, etc.)
  - Measures for breaks during pregnancy (extended breaks, more frequent breaks, change of break timetable, etc.)
  - Measures to respond to the worker's physical condition during pregnancy or after childbirth (limiting work, shortening work hours, taking leave, etc.)

- \* Even without physician's guidance or even if the guidance is ambiguous, employers need to take appropriate measures such as contacting the physician or industrial health staff through the worker to seek guidance.

## 7 The Equal Employment Opportunity Law is applied to temporary workers as well

In staffing business, temporary employers are also prohibited by law from the disadvantageous treatment of women on the basis of pregnancy and childbirth (Article 9), and are subject to regulations with regard to sexual harassment (Article 11), pregnancy and childbirth harassment (Article 11-2), and maternal health control (Article 12 and 13).

- \* Temporary employers are also prohibited from the disadvantageous treatment of workers on the basis of the worker applying for or taking childcare and other nursing care leave that is stipulated under the Act on Childcare Leave, Caregiver Leave, and Other Measures for the Welfare of Workers Caring for Children or Other Family Members (Act 10, 16, 16-4, 16-7, 16-10, 18-2, 20-2, 23-2).

### Contact: Employment / Equal Opportunity Divisions (Offices), Prefectural Labour Bureau

\*Phone calls will be handled in Japanese.

\*Interpreters can be provided if you come directly for inquiries.

Area	Phone	Area	Phone	Area	Phone	Area	Phone
Hokkaido	011-709-2715	Tokyo	03-3512-1611	Shiga	077-523-1190	Kagawa	087-811-8924
Aomori	017-734-4211	Kanagawa	045-211-7380	Kyoto	075-241-3212	Ehime	089-935-5222
Iwate	019-604-3010	Niigata	025-288-3511	Osaka	06-6941-8940	Kochi	088-885-6041
Miyagi	022-299-8844	Toyama	076-432-2740	Hyogo	078-367-0820	Fukuoka	092-411-4894
Akita	018-862-6684	Ishikawa	076-265-4429	Nara	0742-32-0210	Saga	0952-32-7218
Yamagata	023-624-8228	Fukui	0776-22-3947	Wakayama	073-488-1170	Nagasaki	095-801-0050
Fukushima	024-536-4609	Yamanashi	055-225-2851	Tottori	0857-29-1709	Kumamoto	096-352-3865
Ibaraki	029-277-8295	Nagano	026-227-0125	Shimane	0852-31-1161	Oita	097-532-4025
Tochigi	028-633-2795	Gifu	058-245-1550	Okayama	086-225-2017	Miyazaki	0985-38-8821
Gunma	027-896-4739	Shizuoka	054-252-5310	Hiroshima	082-221-9247	Kagoshima	099-223-8239
Saitama	048-600-6269	Aichi	052-857-0312	Yamaguchi	083-995-0390	Okinawa	098-868-4380
Chiba	043-221-2307	Mie	059-226-2318	Tokushima	088-652-2718		

Hours: 8:30 AM - 5:15 PM (closed on Saturdays, Sundays, national holidays, end of the year and the New Year)