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.

- 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: Treating male and female workers differently with regard to a change in employment status.

- 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.
Dis 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
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 23rd 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.
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**
Hours: 8:30 AM - 5:15 PM (closed on Saturdays, Sundays, national holidays, end of the year and the New Year)

*Interpreters are not provided. Please bring someone who can interpret for you.*

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