

Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children

(Act No. 52 of May 26, 1999)

(Statement of Purpose)

Article 1 The purpose of this Act is to protect the rights of children by punishing activities relating to child prostitution and child pornography, and providing measures for the protection of children who have consequently suffered physically and/or mentally in light of the fact that sexual exploitation and sexual abuse of children seriously infringe upon the rights of children and taking into account international trends in the rights of children.

(Definitions)

Article 2 (1) The term "child" as used in this Act shall mean a person under eighteen(18) years of age.

(2) The term "child prostitution" as used in this Act shall mean sexual intercourse(sexual intercourse or any conduct similar to sexual intercourse, or touching genital organs, (i.e., genital organs, anus and nipples; the same shall apply hereinafter) of a child or having a child touch one's own genital organs for the purpose of satisfying one's sexual curiosity; the same shall apply hereinafter) with a child in return for giving or promising remuneration to any person who falls under any of the following items:

(i) The child;

(ii) Any person who intermediates sexual intercourse with the child;

(iii) The protector of the child (a person with parental rights, the guardian of the minor or any other individual, who is taking actual care of the child; the same shall apply hereinafter) or any person who has the child under his/her control.

(3) The term "child pornography" as used in this Act shall mean photographs, recording media containing electromagnetic records (any record which is produced by electronic, magnetic or any other means unrecognizable by natural perceptive functions and is used for data-processing by a computer; the same shall apply hereinafter) or any other medium which depicts the pose of a child, which falls under any of the following items, in a visible way:

(i) Any pose of a child engaged in sexual intercourse or any conduct similar to sexual intercourse;

(ii) Any pose of a child having his or her genital organs touched by another person or of a child touching another person's genital organs, which arouses

- or stimulates the viewer's sexual desire;
- (iii) Any pose of a child wholly or partially naked, which arouses or stimulates the viewer's sexual desire.

(Due Care in Application of this Act)

Article 3 In the application of this Act, care shall be taken not to improperly infringe upon the rights of citizens.

(Child Prostitution)

Article 4 Any person who commits child prostitution shall be sentenced to imprisonment with work for not more than five years or a fine of not more than three million yen.

(Intermediation in Child Prostitution)

- Article 5 (1) Any person who intermediates in child prostitution shall be sentenced to imprisonment with work for not more than five years and/or a fine of not more than five million yen.
- (2) Any person who intermediates in child prostitution with the intention of doing so on a regular basis shall be sentenced to imprisonment with work for not more than seven years and a fine of not more than ten million yen.

(Solicitation of Child Prostitution)

- Article 6 (1) Any person who solicits another person to commit child prostitution for the purpose of intermediating child in prostitution shall be sentenced to imprisonment with work for not more than five years and/or a fine of not more than five million yen.
- (2) Any person who solicits another person to commit child prostitution on a regular basis for the purpose set forth in the preceding paragraph shall be sentenced to imprisonment with work for not more than seven years and a fine of not more than ten million yen.

(Provision of Child Pornography and Other Related Activities)

- Article 7 (1) Any person who provides child pornography shall be sentenced to imprisonment with work for not more than three years or a fine of not more than three million yen. The same shall apply to a person who provides electromagnetic records or any other record which depicts the pose of a child, which falls under any of the items of paragraph 3 of Article 2, in a visible way through electric telecommunication lines.
- (2) Any person who produces, possesses, transports, imports to or exports from Japan child pornography for the purpose of the activities prescribed in the preceding paragraph shall be punished by the same penalty as is prescribed in

the said paragraph. The same shall apply to a person who retains the electromagnetic records prescribed in the preceding paragraph for the purpose of the same activities.

- (3) In addition to the preceding paragraph, any person who produces child pornography by having a child pose in any way which falls under any of the items of paragraph 3 of Article 2, depicting such pose in photographs, recording media containing electromagnetic records or any other medium shall be punished by the same penalty prescribed in paragraph 1 of this article.
- (4) Any person who provides child pornography to unspecified persons or a number of persons, or displays it in public shall be sentenced to imprisonment with work for not more than five years and/or a fine of not more than five million yen. The same shall apply to a person who provides electromagnetic records or any other record which depicts the pose of a child, which falls under any of the items of paragraph 3 of Article 2, to unspecified persons or a number of persons in a visible way through telecommunication lines.
- (5) Any person who produces, possesses, transports, imports to or exports from Japan child pornography for the purpose of the activities prescribed in the preceding paragraph shall be punished by the same penalty as is prescribed in the said paragraph. The same shall apply to a person who retains the electromagnetic records prescribed in the preceding paragraph for the purpose of the same activities.
- (6) Any Japanese national who imports or exports child pornography to or from a foreign country for the purpose of the activities prescribed in paragraph 4 of this article shall be punished by the same penalty prescribed in the said paragraph.

(Trafficking in Children for the Purpose of Child Prostitution)

- Article 8 (1) Any person who buys or sells a child for the purpose of having the child be a party to sexual intercourse in child prostitution, or for the purpose of producing child pornography by depicting the pose of a child, which falls under any of the items of paragraph 3 of Article 2, shall be sentenced to imprisonment with work for not less than one year and not more than ten years.
- (2) Any Japanese national who transports a child residing in a foreign state, who has been kidnapped by enticement or force or sold, out of that state shall be sentenced to imprisonment with work for a definite term of not less than two years.
 - (3) Any person who attempts the crimes prescribed in the two preceding paragraphs shall be punished.

(Knowledge of the Age of the Child)

Article 9 No one who uses a child shall be exempt from punishment pursuant to the provisions of Articles 5 to 8 on the grounds of lacking knowledge of the age of the child. However, this shall not apply in cases where there is no negligence.

(Crimes Committed by Japanese Nationals outside Japan)

Article 10 The crimes prescribed in Articles 4 to 6, paragraphs 1 to 5 of Article 7, and paragraphs 1 and 3 (limited to the part related to paragraph 1 of the same article) of Article 8 shall be governed by Article 3 of the Penal Code (Law No. 45 of 1907).

(Dual Liability)

Article 11 When a representative of a juridical person or a proxy, employee or any other staff member of a juridical person or of an individual has committed any of the crimes prescribed in Articles 5 to 7 with regard to the business of said juridical person or individual, not only the offender shall be punished but also said juridical person or individual shall be punished by the fine prescribed in the respective articles.

(Consideration in the Course of Investigations and Trials)

Article 12 (1) Those who officially participate in investigations or trials of cases pertaining to the crimes prescribed in Articles 4 to 8 (referred to as "related officials" in the following paragraph) shall pay due consideration to the human rights and characteristics of children and take care not to harm the reputation or dignity of the children in performance of their official duties.

(2) The national and local governments shall endeavor to train and enlighten related officials in order to deepen their understanding of the human rights and characteristics of children.

(Prohibition of Publication or Broadcasting on Children)

Article 13 With respect to a child involved in a case pertaining to the crimes prescribed in Articles 4 to 8, written articles, photographs or broadcast programs which allow the child to be identified from their contents, such as the name, age, occupation, name of the school, residence, appearance or other details, shall not appear in newspapers or other publications or be broadcast.

(Education, Enlightenment, Research and Studies)

Article 14 (1) The national and local governments shall endeavor to educate and enlighten the general public in order to deepen their understanding of the human rights of children and to prevent such activities as child prostitution or the provision of child pornography, in light of the fact that such activities seriously affect the sound development of children physically and mentally.

(2) The national and local governments shall endeavor to promote research and studies that will contribute to the prevention of such activities as child prostitution or the provision of child pornography.

(Protection of Children Who Have Suffered Physical or Mental Damage)

Article 15 (1) The administrative organs shall endeavor to cooperate with one another and take proper measures to provide sufficient protection, such as consultation, guidance, temporary guardianship and admission into an institution, with regard to a child who has suffered physical or mental damage as a result of having been a party to child prostitution or having been depicted in child pornography, taking into account his/her physical and mental condition and surroundings, in order to let the child recover physically and mentally from the damage he/she has suffered and to be able to develop in a way which maintains his/her own dignity.

(2) The administrative organs shall endeavor to take measures such as consultation, guidance and other measures for the protector of the child when, taking the measures provided in the preceding paragraph, they find it necessary for protection of the child.

(Improvement of Systems for the Protection of Children Who Have Suffered Physical and Mental Damage)

Article 16 In order to enable proper protection based on expert knowledge with regard to children who have suffered physical and mental damage as a result of having been a party to child prostitution or of having been depicted in child pornography, the national and local governments shall endeavor to establish and improve the systems necessary for promoting research and studies, improve the quality of those protecting such children, reinforce the systems of cooperation and liaison among the administrative organs in cases where there is urgent need of protection, and arrange systems of cooperation and liaison with private organizations.

(Promotion of International Cooperation)

Article 17 The national government shall endeavor to secure close international cooperation and promote international research and studies, in order to prevent the activities related to the crimes prescribed in Articles 4 to 8 and to exercise proper and prompt investigation in such cases.

Supplementary Provisions [Extract]

(Effective Date)

Article 1 This Act shall enter into force as from the date specified by a Cabinet

Order within a period not exceeding six months from the day of promulgation.

(Prefectural or Municipal Ordinances)

Article 2 (1) Provisions of local government ordinances which punish the activities regulated in this Act shall cease to have effect from the day of enforcement of this Act.

(2) When the provisions of local government ordinances cease to have effect through the preceding paragraph and the local government does not establish provisions separately through another act, with regard to the punishment of the activities committed prior to the lapse of the provisions, the provisions then in force shall remain applicable.

(Examination of this Act)

Article 6 The systems for the protection of children from sexual exploitation or sexual abuse such as the regulations on child prostitution or child pornography shall be examined approximately three years after the day of enforcement of this Act and, based on the examination, necessary measures shall be taken in consideration of the implementation of this Act and international trends in the protection of the human rights of children.

Supplementary Provisions [Act No.106 of 2004] [Extract]

(Effective Date)

Article 1 This Act shall enter into force twenty days from the day of promulgation. However, Article 4 of this supplementary provision shall enter into force one day later than either the day of enforcement of this Act or the day of enforcement of the Partial Amendment to the Penal Code Regarding the Internationalization and Organization of Crimes and the Advancement of Information Processing (Act No. of 2004).

(Examination)

Article 2 The systems for protecting children from sexual exploitation or sexual abuse, such as the regulations on child prostitution or child pornography, shall be examined approximately three years after the day of enforcement of this Act and, based on the result of the examination, adequate measures shall be applied after considering the effects of implementation of this Act after its amendment on punishment of activities relating to child prostitution and child pornography and the protection of children, and international trends in the protection of the human rights of children.

(Transitional Measures on Application of the Act on Punishment of Organized

Crimes and Control of Crime Proceeds)

Article 3 Where the enforcement day of this Act precedes the enforcement day of the Partial Amendment to the Penal Code Regarding the Internationalization and Organization of Crimes and Advancement of Information Processing, with respect to the application of appended table 59 of the Act on Punishment of Organized Crimes and Control of Crime Proceeds(Act No.136 of 1999)prior to enforcement of the partial amendment, the term "Article 7 (Distribution of Child Pornography)" in the appended table shall be deemed to be replaced with "Paragraph 4 (Provision of Child Pornography to Unspecified Persons or a Number of Persons and Other Related Acts), Paragraph 5 (Production of Child Pornography with the Purpose of Provision to Unspecified Persons or a Number of Persons and Other Related Acts) or Paragraph 6 of Article 7 (Importation of Child Pornography for the Purpose of Provision to Unspecified Persons or a Number of Persons and Other Related Acts)".