

# **Enforcement Regulation of the Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment**

(Order of the Ministry of Labour No. 2 of January 27, 1986)

Based on the provisions of the Article 9, Article 10, Article 14, Article 21 and Article 33, paragraph (2) of the Act on Equal Opportunity between Men and Women in Employment (Act No. 113 of 1972), the Enforcement Regulation of the Act on Equal Opportunity between Men and Women in Employment is established as follows.

## **(Fringe Benefits)**

Article 1 The measures of fringe benefits provided by Order of the Ministry of Health, Labour and Welfare provided for in Article 6, item (ii) of the Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment (hereinafter referred to as the "Act") are to be as follows:

- (i) the lending of funds for living expenses, funds for education expenses and other funds for the purpose of promoting workers' welfare;
- (ii) regular payment of moneys for the purpose of promoting workers' welfare;
- (iii) payment of moneys for the purpose of asset formation by the workers; and
- (iv) the lending of housing.

## **(Measures that may Cause Substantial Discrimination due to a Person's Sex)**

Article 2 Measures specified by Order of the Ministry of Health, Labour and Welfare provided for in Article 7 of the Act are to be as follows:

- (i) measures which concern the recruitment or employment of workers and which require criteria concerning the worker's height, weight or physical strength;
- (ii) measures which concern the recruitment, employment, promotion or change in job type of workers and which require criteria concerning the worker's ability to receive reassignment that results in the relocation of the worker's residence; and
- (iii) measures which concern the promotion of workers and which require criteria concerning the worker's experience of having been reassigned to a workplace other than the workplace where the worker had formerly worked.

## **(Reasons relating to Pregnancy or Childbirth)**

Article 2-2 Reasons relating to pregnancy or childbirth provided by Order of the Ministry of Health, Labour and Welfare provided for in Article 9, paragraph (3)

of the Act are to be as follows:

- (i) pregnancy;
- (ii) childbirth;
- (iii) requesting a measure as stipulated in Article 12 or Article 13, paragraph (1) of the Act, or having received such a measure;
- (iv) being unable to take a job or having been absent from work pursuant to the provisions of Article 64-2, item (i) or Article 64-3, paragraph (1) of the Labor Standards Act (Act No. 49 of 1947), or filing an application pursuant to the provision of Article 64-2, item (i) of the same Act or Article 2, Paragraph (2) of the Rules on Labour Standards for Women (Order of Ministry of Labour No. 3 of 1986) or having been absent from work pursuant to these provisions;
- (v) requesting absence from work as stipulated in Article 65, paragraph (1) of the Labor Standards Act or having taken leave as stipulated in the same paragraph, or being unable to work pursuant to the provisions of paragraph (2) of the same article or having taken a leave as stipulated in the same paragraph;
- (vi) making a request as stipulated in Article 65, paragraph (3) of the Labor Standards Act or having been transferred to other light activities pursuant to the provisions of the same paragraph;
- (vii) making a request as stipulated in Article 66, paragraph (1) of the Labor Standards Act, or having not worked in excess of the working hours set forth in Article 32, paragraph (1) of the same Act per week or in excess of the working hours set forth in paragraph (2) of the same article per day pursuant to the provisions of the same paragraph, making a request in as stipulated in Article 66, paragraph (2) of the same Act, or having not worked overtime nor worked on days off pursuant to the provisions of the same paragraph, or making a request as stipulated in the provisions of Article 66, paragraph (3) of the same Act or having not worked at night pursuant to the provisions of the same paragraph;
- (viii) making a request as stipulated in Article 67, paragraph (1) of the Labor Standards Act or having taken childcare time as stipulated in paragraph (2) of the same article; and
- (ix) being unable or having been unable to provide labor service, or experiencing a decline in labor efficiency due to a symptom that is attributable to pregnancy or childbirth.

(Measures referred to Article 12 of the Act)

Article 2-3 Employers must secure the necessary time off pursuant to the following provisions so that women workers they employ may receive health guidance and medical examinations:

(i) in cases where a woman worker concerned is pregnant, the employer is to ensure the necessary time off once every period within the number of weeks listed in the right-hand column of the table below for the number of weeks of pregnancy listed in the left-hand column of the table. However, in the event that a doctor or birthing assistant gives different instructions, the employer is to ensure the relevant necessary time in accordance with these instructions.

Weeks of Pregnancy	Period
Up to and including 23 weeks	4 weeks
From 24 weeks to 35 weeks	2 weeks
From 36 weeks to delivery	1 week

(ii) in cases where less than one year has passed since childbirth regarding the woman worker concerned, in the event that a doctor or birthing assistant instructs her to receive health guidance or medical examinations, the employer secure the relevant necessary time in accordance with these instructions.

(Chief of the Conciliation Commission)

Article 3 (1) The chairperson of the disputes coordinating committee (hereinafter referred to as the "committee") designates one of the conciliation commissioners (hereinafter referred to as the "chief of the conciliation commission") to be in charge of and preside over meetings held as entrusted pursuant to the provisions of Article 18, paragraph (1) of the Act to conciliate any dispute prescribed in the same paragraph (hereinafter referred to as the "equal opportunity conciliation conference").

(2) In the event that the chief of the conciliation commission is prevented by unavoidable circumstances from performing duties, a conciliation commissioner who has been designated in advance by the chief of the conciliation mediation commission serves as said chief's deputy.

(Equal Opportunity Conciliation Conference)

Article 4 (1) The chief of the conciliation commission calls the equal opportunity conciliation conference.

(2) The equal opportunity conciliation conference may not be convened unless two or more conciliation commissioners are present.

(3) The equal opportunity conciliation conference is not open to the public.

(Administrative Work of the Equal Opportunity Conciliation Conference)

Article 5 The administrative work of the equal opportunity conciliation conference is handled by the equal employment department of the prefectural labor office at which it is established.

(Application for Conciliation)

Article 6 A person who intends to apply for conciliation set forth in Article 18, paragraph (1) of the Act (hereinafter referred to as "conciliation") must submit a written application for conciliation (appended form) to the director of the prefectural labor office with jurisdiction over the location of the workplace that includes the worker who is one of the parties concerned in the dispute for which conciliation is being requested (which means the worker and the worker's employer; the same applies hereinafter).

(Decision to Commence Conciliation)

Article 7 (1) When the director of each prefectural labor office decides to refer to the committee for conciliation, said director is to notify the chairperson and the chief of the conciliation commission to this effect without delay.

(2) The director of each prefectural labor office is to notify, in writing and without delay, both of the parties concerned upon deciding to refer a dispute to the committee for conciliation, and the party or parties of the parties concerned who applied for conciliation upon deciding not to refer a dispute to the committee for conciliation.

(Hearing on the Circumstances from the Parties Concerned)

Article 8 (1) A person whose attendance is requested pursuant to the provisions of Article 20, paragraph (1) or (2) of the Act may attend the equal opportunity conciliation conference. In this case, the relevant person may, with permission of the chief of the conciliation commission, be accompanied by an assistant in court.

(2) The assistant in court may, with the permission of the Chief of the Conciliation Commission, make a statement.

(3) Any person whose attendance is requested pursuant to the provisions of Article 20, paragraph (1) or (2) of the Act may state opinions on the case in question. In this case the person whose attendance is requested pursuant to the provision of Article 20, paragraph (1) may, with the permission of the chief of the conciliation commission, be represented by another person.

(4) Any person who intends to obtain the permission of the chief of the conciliation commission to be represented by another person pursuant to the provisions of the preceding paragraph must submit the name, address and

occupation of the desired representative in writing to the chief of the conciliation commission, together with a document that certifies that the right of representation has been granted to the representative.

(Submission of Documents)

Article 9 If the Committee finds it necessary to investigate the facts of the case in question, it may request the parties concerned to submit documents or items related to the case.

(Delegation of Implementing the Mediation Procedures)

Article 10 (1) If the committee finds it necessary, it may have a specified conciliation commissioner conduct part of the procedures for conciliation. In this case, the provisions of Article 4, paragraphs (1) and (2), do not apply, and with regard to the provisions of Article 8, the term "chief of the conciliation commission" in the same Article is deemed to be replaced with a "specified commission member."

(2) If the committee finds it necessary, it may entrust the investigation of the facts of the case in question to the personnel of the equal employment department of the prefectural labor offices.

(Nomination of Representatives by the Relevant Workers' or Employers' Organizations)

Article 11 (1) If the committee finds it necessary to hear the opinions of representatives pursuant to the provisions of Article 21 of the Act, it is to request the major organization of workers or employers in the jurisdictional district of the prefectural labor offices where the committee concerned is established to nominate a representative of the workers concerned or a representative of the employers concerned by a given date.

(2) Upon receiving a request set forth in the preceding paragraph, the workers' organization or employers' organization concerned is to notify the committee of the name and address of the persons who are to state opinions on the case in question.

(Recommendation for Acceptance of a Conciliation Proposal)

Article 12 (1) A conciliation proposal is to be prepared by unanimous agreement of all the conciliation commissioners.

(2) If the committee recommends acceptance of a conciliation proposal, it is to make a recommendation to both of the parties concerned, specifying a date by which they should accept it.

(3) If the parties concerned accept the conciliation proposal, they must submit to the Committee documents in writing to this effect, affixing their names and

seals.

(Measures for Female Workers Engaged in Night Shifts)

Article 13 Employers are to, for the purpose of promoting a full working life for female workers, endeavor to take necessary measures to secure the woman worker's safety during commuting and the performance of her work in cases where the employer requires a woman worker to engage in night shift work, until otherwise provided for by law.

(Delegation of Authority)

Article 14 The authority of the Minister of Health, Labour and Welfare prescribed in Article 29, Paragraph (1) of the Act, except where it concerns cases that the Minister finds to be of national importance, is to be granted to the director of the prefectural labor offices that has jurisdiction over the location of the place of business of the employer.