

EQUAL EMPLOYMENT ACT
Act No. 3989, Dec. 4, 1987

Amended by Act No. 4126, Apr. 1, 1989
Act No. 4976, Aug. 4, 1995
Act No. 5933, Feb. 8, 1999
Wholly amended by Act No. 6508, Aug. 14, 2001

CHAPTER I

General Provisions

Article 1 (Purpose)

The purpose of this Act is to realize the gender equality in employment in compliance with the idea of equality in the Constitution by ensuring equal opportunity and treatment for men and women in employment, while protecting maternity and providing support for the reconciliation of work and family life, vocational competency development and employment promotion for women.

Article 2 (Definition)

(1) In this Act, the term "discrimination" refers to applying different conditions of employment or work to workers or taking any other disadvantageous measures against them without any reasonable reasons on account of sex, marriage, status in family, pregnancy, or child-birth, etc. Even when an employer applies the same hiring or working conditions to males and females, if the number of males or females who can meet the conditions is considerably less than that of the opposite sex, if this causes a disadvantageous results to either sex, and if the conditions applied can not be justified as fair ones, it shall constitute the discrimination. Provided, that the following cases in each subparagraph shall not be considered the discrimination.

1. In case workers of specific gender are inevitably needed due to the nature of a job
2. In case measures are taken to protect the maternity of working women in their pregnancy, childbirth, child-feeding, etc.
3. In case the State and local governments or employers temporarily take special measures to give a preferential treatment to a particular gender to remove the existing discrimination.

(2) The "sexual harassment at work" in this Act refers to a situation where

an employer, a senior, or a worker makes other worker feel sexually humiliated or offended by using sexually charged behavior or language using their high status at work or in relation to work, or gives disadvantages in employment on account of no-response to the sexual gesture or other requests.

Article 3 (Scope of Application)

(1) This Act shall apply to all business or workplace using workers (hereinafter referred to as "business"); Provided, that the business as prescribed by Presidential Decree shall be exempt from the application of part or all of this Act.

(2) Unless otherwise provided for specially by other laws regarding the realization of gender equality in employment, this Act shall apply.

Article 4 (Responsibility of the Concerned Persons)

(1) Workers shall make efforts to create workplace culture where men and women are equally respected based on mutual understanding.

(2) Employers shall make efforts to create working environment where male and female workers can use their competency to the maximum on an equal footing by improving practices and institutions hampering equal employment at the concerned workplace.

(3) The State and local governments shall promote citizens' interests and understanding to realize the purposes of this Act, support vocational competency development and employment promotion for women, and make efforts necessary to eliminate all elements undermining the realization of gender equality in employment.

Article 5 (Establishment, etc. of Measures)

(1) The Minister of Labor shall establish and carry out the measures in each subparagraph below to realize gender equality in employment.

1. Public relations intended to raise awareness on gender equality in employment
2. Selection of and support for companies having exemplary practices of gender equality in employment
3. Set-up and implementation of a campaign period for gender equality in employment
4. Survey and research to reduce gender discrimination and to expand employment

of women

5. Other measures necessary to realize equal employment

(2) The Minister of Labor shall make efforts to reflect opinions of the persons concerned in setting up and carrying out the measures in paragraph (1), and, if he/she deems it necessary, may ask for cooperation from the heads of competent administrative bodies, local governments and public organizations.

Article 6 (Establishment of a Basic Plan for Equal Employment)

(1) The Minister of Labor shall establish a basic plan on equal employment (hereinafter referred to as "basic plan").

(2) The basic plan as referred to in paragraph (1) shall include the following items:

1. Matters on promotion of women's employment
2. Matters on ensuring equal opportunity and treatment for men and women;
3. Matters on settlement of practices of paying equal wages for the work of equal value
4. Matters on vocational competency development for women
5. Matters on maternity protection of working women
6. Matters on reconciliation between work and family life
7. Matters on installation and operation of welfare facilities for working women
8. Other matters considered by the Minister of Labor to be necessary for equal employment

CHAPTER II

Ensuring Equal Opportunity and Treatment for Men and Women in Employment, etc.

SECTION I

Equal Opportunity and Treatment for Men and Women

Article 7 (Recruitment and Hiring)

(1) An employer shall not discriminate against men or women based on gender in recruitment and hiring.

(2) When recruiting and hiring female workers, an employer shall not present nor demand certain physical conditions such as appearance, height, weight, etc., unmarried status, and other conditions determined by the Ordinance of the Ministry of Labor which are not required to perform a certain job for which the employer intends to recruit or hire.

Article 8 (Wages)

(1) An employer shall pay the equal wage for the work of equal value in the same business.

(2) The criteria for the work of equal value shall be the skills, efforts, responsibility and working conditions, etc., required to perform the work. And in setting the criteria, an employer shall listen to opinions of a representative of workers at the grievance handling council as prescribed in Article 25.

(3) A separate business established by an employer for the purpose of wage discrimination shall be considered the same business.

Article 9 (Money and Goods other than Wages)

An employer shall not discriminate against men or women in managing welfare programs such as payment of money and goods or loans other than wages in a bid to support workers lives.

Article 10 (Training, Deployment and Promotion)

An employer shall not discriminate against men or women in training, deployment and promotion.

Article 11 (Retirement Age Limit, Retirement and Dismissal)

(1) An employer shall not discriminate against men or women with respect to retirement age limit, retirement and dismissal.

(2) An employer shall not enter into a labor contract stipulating marriage, pregnancy or child-birth of working women as a cause of retirement.

SECTION II

Prohibition and Prevention of Sexual Harassment at Work

Article 12 (Prohibition of Sexual Harassment at Work)

Employers, senior workers or workers shall not engage in sexual harassment at work.

Article 13 (Education To Prevent Sexual Harassment at Work)

(1) An employer shall conduct an education to prevent sexual harassment at work and to create a safe working environment for workers. The methods, contents, frequencies of the education and other necessary matters shall be determined by the Presidential Decree.

(2) An employer may entrust the sexual harassment prevention education prescribed in paragraph (1) to the institutions designated by the Minister of Labor. The conditions of and procedures for the designation of the institutions to which the education may be entrusted and other necessary measures shall be determined by the Ordinance of the Ministry of Labor.

Article 14 (Measures to be taken in case of Sexual Harassment at Work)

(1) An employer shall take a disciplinary measure and other equivalent measures without delay upon finding of sexual harassment at work.

(2) An employer shall make an effort to ensure that one who complains of sexual harassment at work do not get treated disadvantageously at work.

(3) An employer shall not take unfavorable measures such as dismissal, or other disadvantageous measures against a worker who was sexually harassed at work.

SECTION III

Vocational Competency Development and Employment Promotion for Women

Article 15 (Vocational Guidance)

Employment security centers shall take the measures necessary for vocational guidance such as offering employment information and survey and research materials on occupation in a bid to help women choose their jobs according to their aptitude, competency, experiences and skills, and make smooth adaptations to their jobs.

Article 16 (Vocational Competency Development)

The State, a local government and an employer shall guarantee the equal opportunity to men and women in all forms of vocational competency development training in a bid to develop and improve women's vocational competency.

Article 17 (Employment Promotion for Women)

(1) The Minister of Labor may provide non-profit corporations and organizations which establish and operate facilities to promote women's employment with a subsidy for all or part of the necessary costs within the confines of the budget.

(2) The Minister of Labor may provide employers who conduct projects to promote

women's employment with a subsidy for all or part of the necessary costs within the confines of the budget.

(3) The conditions and procedures of the subsidy for the costs as prescribed in paragraph (1) and (2) and other necessary matters shall be determined by the Ordinance of the Ministry of Labor.

CHAPTER III

Maternity Protection and Support for Reconciliation between Work and Family Life

Article 18 (Support for Maternity Leave)

(1) The State shall provide those meeting certain conditions among the workers who took the maternity leave pursuant to Article 72(1) of the Labor Standards Act with the amount equivalent to the ordinary wages(hereinafter referred to as "maternity leave benefits") for the unpaid maternity leave period out of the leave period concerned.

(2) The expenses required to pay the maternity leave benefits as prescribed in paragraph (1) may be borne by the public finance and the social insurance provided by the Basic Act on the Social Security.

(3) An employer shall actively cooperate in the procedures of writing up, verifying, etc. the related documents, in case a female worker intends to receive the maternity leave benefits as prescribed in paragraph (1).

(4) The conditions of and procedures for the payment of the maternity leave benefits as prescribed in paragraph (1) and other necessary matters shall be determined separately by law.

Article 19 (Childcare Leave)

(1) An employer shall allow, when a worker with an infant aged less than one year applies for the childcare leave to take care of the infant (hereinafter referred to as 'childcare leave'), the childcare leave. Provided, that this shall not apply in such cases as prescribed by the Presidential Decree.

(2) The duration of childcare leave prescribed in paragraph (1) shall be one year or less, and shall not pass the first birthday of the infant.

(3) An employer shall neither dismiss and give unfavorable treatment to a worker on account of taking childcare leave as prescribed in paragraph (1), nor dismiss the concerned worker during the childcare leave period; Provided, that this shall not apply when the employer is not able to continue his/her business.

(4) An employer shall allow the employee who ended the childcare leave as prescribed in paragraph (1) to return to the same work which the employee used to do before the childcare leave or to the work paying the equivalent level of wages. Also, the period of the childcare leave prescribed in paragraph (2) shall be included in the total service period of the employee.

(5) The methods and procedures of application for the childcare leave and other necessary matters shall be determined by the Presidential Decree.

Article 20 (Support for Reconciliation between Work and Family Life)

(1) The State may provide support for part of living costs of the worker concerned and part of employment retention costs of an employer concerned when the employer allows the childcare leave prescribed in Article 19 to the worker.

(2) The conditions of and procedures for the support for the costs as prescribed in paragraph (1) and other necessary measures shall be determined separately by a law.

Article 21 (Nursing Facilities)

(1) An employer shall install nursing facilities necessary for childcare such as breast-feeding, nursing, etc.(hereinafter referred to as 'childcare facilities at work') to support employment of workers.

(2) The matters concerning the installation and operation of a childcare facility at work such as the scope of employers required to install childcare facility at work prescribed in paragraph (1) shall be provided by the Infant Nursery Act.

(3) The Minister of Labor shall provide guidance and support necessary to operate the childcare facilities at work provided in paragraph (1).

Article 22 (Installation of Welfare Facilities)

(1) The State and local governments may install a public welfare facility for education, childcare, housing, etc. for working women.

(2) The necessary matters as to the criteria and operation for a welfare facility for working women prescribed in paragraph (1) shall be determined by the Minister of Labor.

CHAPTER IV

Prevention and Mediation of Disputes

Article 23 (Counselling Support)

(1) The Minister of Labor may provide a private organization conducting a counselling service on discrimination and sexual harassment at work with support for part of the necessary expenses within the confines of the budget.

(2) The criteria of selecting an organization, the criteria and procedures for the support for the expenses as prescribed in paragraph (1) and other necessary matters shall be prescribed by the Ordinance of the Ministry of Labor.

Article 24 (Honorary Equal Employment Inspector)

(1) The Minister of Labor may commission a person recommended by both labor and management among the workers in the workplace concerned as an honorary equal employment inspector (hereinafter referred to as "Honorary Inspector") in order to promote the equal employment at workplace.

(2) An honorary inspector shall perform the jobs prescribed in each subparagraph below.

1. Providing counselling and advice to a worker who is the victim of discrimination or sexual harassment at work
2. Attendance in an autonomous check-up of equal employment observance status and provision of guidance at the concerned workplace
3. Recommending an employer to make improvement on the law violations and reporting the violations to the authorities concerned
4. Public relations activities and education on equal employment system
5. Other jobs determined by the Minister of Labor to realize the gender equality in employment

(3) An employer shall not take any measure disadvantageous to an honorary inspector for carrying out the rightful activities.

(4) The commissioning and decommissioning of the honorary inspector as prescribed in paragraph (1) and other necessary matters shall be prescribed by the Ordinance of the Ministry of Labor.

Article 25 (Autonomous Settlement of Disputes)

(1) If an employer is informed of a grievance from a worker with respect to the matters prescribed in the Articles 7 through 14, 18(3), 19 through 21, the employer shall make efforts to settle the grievance autonomously by entrusting the grievance handling council established in the workplace concerned to resolve the grievance.

(2) The grievance handling council prescribed in paragraph (1) shall be composed of the equal numbers of members, representing employers and workers, respectively, at the workplace concerned. However, if the Labor-Management Council established at the workplace concerned by the Act concerning the Promotion of Worker Participation and Cooperation executes the duties of an grievance handling council pursuant to this Act, a grievance council may not be set up.

(3) The scope of employers liable to establish the grievance handling council as prescribed in paragraph (1), establishment method, grievances handling procedures and other necessary matters shall be determined by the Presidential Decree.

Article 26 (Request for Mediation)

(1) Both or either of the employer and a worker or a trade union of the

workplace concerned to which the worker belongs (hereinafter referred to as "related parties") may request the Equal Employment Commission pursuant to Article 27 to make a mediation when disputes occur regarding this Act.

(2) A request for the mediation prescribed in paragraph (1) shall be made within 3 months from the date when the disputes occur (from the end date, in case the disputes continue).

Article 27 (Establishment of Equal Employment Commission)

An Equal Employment Commission (hereinafter referred to as "Commission") shall be established at the local labor administrations to mediate the disputes and consult the matters related to realization of the equal employment pursuant to this Act.

Article 28 (Composition, etc. of the Commission, etc.)

(1) The Commission shall consist of fifteen members including the chairman, with five members each representing workers, employers and the public interests, respectively. Provided that the members representing workers and employers shall be commissioned by the Minister of Labor at the nomination of the head of the local labor administration among those recommended by the trade union and employers' association, respectively, and the public interest members shall be commissioned by the Minister of Labor at the nomination of the head of the local labor administration among those who have profound knowledge and experience regarding equal employment or public servants related to equal employment work.

(2) The Commission shall have two standing expert members or less to investigate the matters necessary for the mediation of the disputes and to render other assistance to the Commission's work.

(3) The necessary matters as to qualification, tenure of the members and operation of the Commission shall be determined by the Presidential Decree.

Article 29 (Mediation and Submission of Opinions by the Commission)

(1) The Commission may write up, upon receiving a request for mediation pursuant to Article 26, a mediation proposal and recommend the concerned parties to accept the mediation proposal.

(2) The Commission may request the concerned parties or administrative agencies of the attendance, submission of materials and other necessary cooperation.

(3) When the concerned parties have accepted the mediation proposal, the Commission shall write up a mediation outcome, and a labor contract prescribing

working conditions which do not meet the terms prescribed in the mediation outcome shall become nullified, and the nullified part shall be replaced by the terms determined in the mediation outcome.

(4) The Commission shall notify the concerned parties of the results of mediation within thirty days after the receipt of the mediation request.

(5) The Commission shall, when it writes up a mediation proposal and recommends it to the concerned parties, report the contents and results to the head of the local labor administration.

(6) The Commission shall, if it is asked by the head of the local labor administration to provide opinion on whether there occurred any violations of this Act, submit an opinion within 30 days.

(7) The matters concerning the disputes mediation procedures, operation of the Commission, etc. shall be determined by the Ordinance of the Ministry of Labor.

Article 30 (Burden of Proof)

The burden of proof in settling the disputes related to this Act shall be borne by the employer.

CHAPTER V

Supplementary Provisions

Article 31 (Report and Inspection, etc.)

(1) The Minister of Labor may, if it is deemed necessary to enforce this Act, order employers to make necessary reports and submit the related documents, or have the concerned public official visit the workplace concerned to question the related person or inspect the related documents.

(2) When making such a visit as prescribed in the paragraph (1), the concerned public official shall present a certificate showing his/her authority to the related person.

Article 32 (Announcement on Implementation Status, etc. of Equal Employment)

The Minister of Labor may, if it is deemed necessary to ensure the effectiveness of this Act, announce the implementation status of equal employment and other survey results. However, this shall not apply in case the announcement is restricted by other Acts.

Article 33 (Keeping of Related Documents)

An employer shall keep the documents related to the matters pursuant to this Act as determined by the Presidential Decree for three years.

Article 34 (Application to Dispatched Workers)

When the provision of Article 13(1) is applied to the workplaces where dispatched workers are used pursuant to the Act relating to Protection, etc. for Dispatched Workers, the using employer prescribed in Article 2(4) of the Act relating to Protection, etc. for Dispatched Workers shall be regarded as the employer prescribed in this Act.

Article 35 (Subsidy for Expenses)

(1) The State, a local government and a public entity may subsidize all or part of the expenses for the projects related to the promotion of women's employment and welfare within the confines of the budget.

(2) The State, a local government and a public entity may, if one who has received the subsidies in accordance with paragraph (1) falls under any of the following subparagraphs, wholly or partially revoke the decision to provide the subsidies, and order a return of all or part of the already provided subsidies:

1. when one used the subsidies for purposes other than the originally intended project;
2. when one violated the contents(including the conditions, in case there is any condition attached.) of the subsidy provision decision;
3. when one received the subsidies through a false and fraudulent method; and
4. when one violated this Act or the orders by this Act.

Article 36 (Delegation and Entrustment of Authority)

The Minister of Labor may delegate part of the authority under this Act to the heads of local labor administrations or local governments, or entrust it to public entities as determined by the Presidential Decree.

Chapter VI

Penal Provisions

Article 37 (Penal Provisions)

(1) An employer who commits an action in violation of Article 11 shall be punished by imprisonment of 5 years or less or a penalty of 30 million won or less.

(2) An employer who commits an action in violation of Article 8(1), 14(3) and 19(3) shall be punished by imprisonment of three years or less or a penalty of 20 million won or less.

(3) An employer who commits an action in violation of Article 7, 9, 10, 19(1) and (4), and 24(3) shall be punished by a penalty of 5 million won or less.

Article 38 (Joint Penal Provisions)

If a representative of a juristic person or a juristic person or an agent for an individual, employee and other employees commits an action as prescribed in Article 37 in connection with the juristic person's or the individual's work, the penalty as prescribed in same Article shall be imposed on such juristic person or individual, as well as the offender.

Article 39 (Fine for Negligence)

(1) An employer who commits an action in violation of Article 12 shall be punished by a fine for negligence of ten million won or less.

(2) An employer who commits an action in violation of Article 14(1) shall be punished by a fine for negligence of five million won or less.

(3) One who falls under any of the following subparagraphs shall be punished by a fine for negligence of 3 million won or less.

1. One who failed to take the measures prescribed in Article 13(1), 18(3), or 33;

2. One who refuses to submit a report or relevant documents as prescribed in Article 31(1) or who submits a false report or documents; and

3. One who refuses, interferes with and evades the inspection under Article 31(1).

(4) The fine for negligence under paragraph (1) through (3) shall be imposed and collected by the Minister of Labor as prescribed by the Presidential Decree.

(5) One who is dissatisfied with the imposition of a fine for negligence under paragraph (4) may raise an objection against Minister of Labor within thirty days after the receipt of the notification on the imposition.

(6) If a person who is imposed with a fine for negligence pursuant to paragraph (4) raises an objection in accordance with paragraph (5), the Minister of Labor shall notify it without delay to the competent court, which shall, upon receiving the notification, bring the case of fine for negligence to trial under the Non-Contentious Case Litigation Procedure Act.

(7) If no objection is made or no fine for negligence is paid within the period in accordance with paragraph (5), the fine for negligence shall be collected according to the examples of the disposition of the national taxes in arrears.

Addenda

(1) (Enforcement Date)

This Act shall take effect from Nov. 1, 2001.

(2) (Transitional Measures concerning Penal Provision, etc.)

The application of the penalty or the fine for negligence for the actions committed before the enforcement of this Decree shall be pursuant to the previous provisions.

(3) (Transitional Measures concerning Equal Employment Commission)

The Equal Employment Commission established pursuant to the previous provisions at the time of enforcement of this Act shall be considered as the Equal Employment Commission under this Act.

(4) (Relations with Other Laws)

In case other laws quote the provisions of the Equal Employment Act at the time of enforcement of this Act, and if this Act has the corresponding provisions, it shall be considered that the corresponding provisions in this Act are quoted instead of the previous provisions.