



Article Content

Title Act of Gender Equality in Employment **Ch**

Amended Date 2011.01.05

Chapter I General Provisions

Article 1 The Act is enacted to protect gender equality in right-to-work, implement thoroughly the constitutional mandate of eliminating gender discrimination, and promote the spirit of substantial gender equality.

Article 2 Arrangements made by employers and employees that are superior to those provided for by the Act shall be respected.
The Act is applicable to civil servants, educational personnel and military personnel, provided that, Articles 33, 34 and 38 of the Act shall not be applicable.
Complaints, remedies and processing procedures for civil servants, educational personnel and military personnel shall be handled in accordance with respective statutes and regulations governing personnel matters.

Article 3 The terms used in the Act shall be defined as follows:
1. Employee means a person who is hired by an employer to work for wages.
2. Applicant means a person who is applying a job from an employer.
3. Employer means a person, a public or private entity or authority that hires an employee. A person who represents an employer to exercise managerial authority or who represents an employer in dealing with employee matters is deemed to be an employer.
4. Wage means the compensation which an employee receives for his/her services rendered, including wages, salaries and bonuses, allowances, and other regular payments regardless of the name which may be computed on an hourly, daily, monthly or piecework basis, whether payable in cash or in kind.

Article 4 The term "competent authority" referred to in the Act shall be the Council of Labor Affairs of the Executive Yuan at the central level, the municipal government at the municipal level, and the county (city) government at the county (city) level.
Matters stipulated in the Act which are concerned with the competences of the competent authorities for other purposes shall be handled by those authorities for other purposes.

Article 5 In order to examine, consult and promote matters concerning gender equality in employment, the competent authorities at each government level shall set up committees on gender equality in employment.
The committees on gender equality in employment referred to in the preceding paragraph shall have five to eleven members with a term of two years. They shall be selected from persons with related expertise on labor affairs, gender issues or with legal

backgrounds. Among them, two members shall be recommended by worker and female organizations respectively. The number of female members of the committees shall be over one-half of the total membership. Matters concerning the organization, meeting and other related issues of the committees referred to in the preceding paragraph shall be prescribed by the competent authorities at each government level.

In the case of local competent authorities which have already set up committees on employment discrimination, they may handle the related matters referred to in the Act, provided that, the composition of these committees shall be in accordance with the provisions of the preceding paragraph.

Article 6 For the purpose of promoting gender equality in employment, the competent authorities at the municipal, country (city) government level shall prepare and earmark necessary budgets to provide various occupational training, employment service and reemployment training programs for them. During these training and service periods, child care, elder care and other related welfare facilities shall be set up or provided for female employment. The Central Competent Authority may subsidize the expenses for those competent authorities at the municipal, country (city) government level that have provided occupational training, employment service and reemployment training programs, and set up or provide child care, elder care and other related welfare facilities during those training and service periods mentioned in the preceding paragraph.

Article 6-1 The scope of labor inspection of the competent authorities shall include the items for prohibition of gender or sexual orientation discrimination, prevention and correction of sexual harassment, measures for promoting equality in employment of the Act.

Chapter II Prohibition of Gender Discrimination

Article 7 Employers shall not discriminate against applicants or employees because of their gender or sexual orientation in the course of recruitment, screening test, hiring, placement, assignment, evaluation and promotion. However, if the nature of work only suitable to a specific gender, the above-mentioned restriction shall not apply.

Article 8 Employers shall not discriminate against employees because of their gender or sexual orientation in the case of holding or providing education, training or other related activities.

Article 9 Employers shall not discriminate against employees because of their gender or sexual orientation in the case of holding or providing various welfare measures.

Article 10 Employers shall not discriminate against employees because of their gender or sexual orientation in the case of paying wages. Employees shall receive equal pay for equal work or equal value. However, if such differentials are the result of seniority systems, award and discipline systems, merit systems or other justifiable reasons of non-sexual or non-sexual-orientation factors, the above-mentioned

restriction shall not apply.

Employers may not adopt methods of reducing the wages of other employees in order to evade the stipulation of the preceding paragraph.

- Article 11 Employers shall not discriminate against employees because of their gender or sexual orientation in the case of retirement, discharge, severance and termination.
- Work rules, labor contracts and collective bargaining agreements shall not stipulate or arrange in advance that when employees marry, become pregnant, engages in childbirth or child care activities, they have to sever or leave of absence without payment. Employers also shall not use the above-mentioned factors as excuses for termination.
- Any prescription or arrangement that contravenes the stipulations of the two preceding paragraphs shall be deemed as null and void. The termination of the labor contract shall also be deemed as null and void.

Chapter III Prevention and Correction of Sexual Harassment

- Article 12 Sexual harassment referred to in the Act shall mean one of the following circumstances:
1. In the course of an employee executing his or her duties, any one makes a sexual request, uses verbal or physical conduct of a sexual nature or with an intent of gender discrimination, causes him or her a hostile, intimidating and offensive working environment leading to infringe on or interfere with his or her personal dignity, physical liberty or affects his or her job performance.
 2. An employer explicitly or implicitly makes a sexual request toward an employee or an applicant, uses verbal or physical conduct of a sexual nature or with an intent of gender discrimination as an exchange for the establishment, continuance, modification of a labor contract or as a condition to his or her placement, assignment, compensation, evaluation, promotion, demotion, award and discipline.

- Article 13 Employers shall prevent and correct sexual harassment from occurrence. For employers hiring over thirty employees, measures for preventing, correcting sexual harassment, related complaint procedures and disciplinary measures shall be established. All these measures mentioned above shall be openly displayed in the workplace.
- When employers know of the occurrence of sexual harassment mentioned in the preceding article, immediate and effective correctional and remedial measures shall be implemented. Related regulations for establishing measures of prevention, correction, complaint and punishment of sexual harassment at workplace mentioned in the preceding paragraph shall be prescribed by the Central Competent Authority.

Chapter IV Measures for Promoting Equality in Employment

- Article 14 When female employees encounter job difficulty because of

menstruation, they may request a menstruation leave for one day in one month. The absent day for this leave shall be incorporated into the day for sickness leave.

The computation of wage of a menstruation leave shall be made pursuant to the related statutes and administrative regulations governing sickness leave.

Article 15 Employers shall stop female employees from working and grant them a maternity leave before and after childbirth for a combined period of eight weeks. In the case of a miscarriage after being pregnant for more than three months, the female employee shall be permitted to discontinue work and shall be granted a maternity leave for four weeks. In the case of a miscarriage after being pregnant for over two months and less than three months, the female employee shall be permitted to discontinue work and shall be granted a maternity leave for one week. In the case of a miscarriage after being pregnant for less than two months, the female employee shall be permitted to discontinue work and shall be granted a maternity leave for five days.

The computation of wage during maternity period shall be made pursuant to the related statutes and administrative regulations. When employees diagnosed pregnancies with threatened abortion and need to recuperate by physicians, during the period of medical treatment, care, or recuperation, their leaves-taking and wages shall be calculated pursuant to the related statutes and administrative regulations.

While employees' spouses are in labor, their employers shall grant them three days off as a paternity leave.

During the preceding paternity leave period, wage shall be paid.

Article 16 After being in service for one year, employees may apply for non-pay parental leaves before any of their children reach the age of three years old. The period of this leave is until their children reach the age of three years old but cannot exceed two years. When employees are raising over two children at the same time, the period of their parental leave shall be computed aggregately and the maximum period shall be limited to two years in which the youngest child raising has received.

During the period of non-pay parental leaves, employees may participate in the original social insurance programs continuously. Premiums originally paid by the employers shall be exempted and premiums originally borne by the employees shall be deferred consecutively for three years.

The allowance for parental leave shall be prescribed by other statutes.

The measures for implementing matters concerning non-pay parental leave shall be prescribed by the Central Competent Authority.

Article 17 After the expiration of non-pay parental leave referred to in the preceding article, employees may apply for reinstatement. Unless one of the following conditions exists and after receiving permission from a competent authority, employers may not reject such application:

1. Where the employers' businesses are suspended, or there are operating losses, or business contractions.
 2. Where the employers change the organization of their businesses, disband or transfer their ownership to others pursuant to other statutes.
 3. Where force majeure necessitates the suspension of business for more than one month.
 4. Where the change of the nature of business necessitates the reduction of workforce and the terminated employees cannot be reassigned to other suitable positions.
- In the case of employers cannot reinstate employees due to the causes referred to in the preceding subparagraph, they shall give notice to the affected employees thirty days in advance and offer severance or retirement payments in accordance with legal standards.
- Article 18 Where employees need to feed his or her baby of less than one year old in person, in addition to the rest period stipulated, their employers shall grant them the feeding time twice a day, each for thirty minutes.
- The feeding time referred to in the preceding paragraph shall be deemed as working time.
- Article 19 For the purpose of raising children of less than three years of age, employees hired by employers with more than thirty employees may request one of the following subparagraph from their employers:
1. To reduce working hours one hour per day; and for the reduced working time, no compensation shall be paid.
 2. To reschedule working hours.
- Article 20 For the purpose of taking personal care for family members who need inoculation, who suffer serious illness or who must handle other major events, employees may request family care leaves. The number of this leave shall be incorporated into leave with personal cause and not exceed seven days in one year.
- The computation of wage during family care leave period shall be made pursuant to the related statutes and administrative regulations governing leave with personal cause.
- Article 21 When employees make a request pursuant to the stipulations of the preceding seven articles, employers may not reject.
- When employees enjoy the benefit pursuant to the preceding paragraph, employers may not treat it as a non-attendance and affect adversely the employees' full-attendance bonus payments, evaluation or take any disciplinary action that is adverse to the employees.
- Article 22 If the spouses of employees are not engaged in any gainful employment, the stipulations of Articles 16 to 20 of the Act shall not apply, provided that, the employees have justifiable reasons.
- Article 23 Employers hiring more than two hundred and fifty employees shall set up child care facilities or provide suitable child care measures.
- Competent authorities shall subsidize the expenses to those employers who have set up child care facilities or provide suitable

child care measures for their employees.

The regulation governing the standards for setting up child care facilities, providing child care measures and the regulation governing the subsidy of expenses shall be prescribed by the Central Competent Authority after consulting with other related public authorities.

Article 24 For the purpose of assisting those employees who have left their jobs due to the reasons of marriage, pregnancy, childbirth, child care or taking personal care of their families, competent authorities at each government level shall adopt employment service, occupational training and other necessary measures for them.

Article 25 For those employers who hire the employees who have left their jobs due to the reasons of marriage, pregnancy, childbirth, child care or taking personal care of their families and with outstanding results, competent authorities at each government level may provide suitable rewarding measures for them.

Chapter V Complaint Procedures and Remedies

Article 26 When employees or applicants are damaged by the employment practices referred to in Articles 7 to 11 or Article 21 of the Act, the employers shall be liable for any damage arising therefrom.

Article 27 When employees or applicants are damaged by the employment practices referred to in Article 12 of the Act, the employers and the harassers shall be jointly and severally liable to make compensations. However, the employers are not liable for the damages if they can prove that they have complied with the Act and provide all preventive measures required, and they have exercised necessary care in preventing damage from occurring but they still happen.
If compensations cannot be obtained by the injured parties pursuant to the stipulations of the preceding paragraph, the court may, on their application, taking into consideration the financial conditions of the employers and the injured parties, order the employers to compensate for a part or the whole of the damage. The employers who have made compensations have rights of recourse against the harassers.

Article 28 When employees or applicants are damaged because employers contravene the obligations referred to in Paragraph 2 of Article 13 of the Act, the employers shall be liable for any damage arising therefrom.

Article 29 In the circumstances referred to in the preceding three articles, employees or applicants may claim reasonable amounts of compensation even for such damage that are not pecuniary losses. If their reputations have been damaged, the injured parties may also claim the taking of proper measures for the restoration of reputations.

Article 30 The statues of limitation for damage arising from wrongful acts referred to in Articles 26 to 28 of the Act shall be two years

- running from the claimants' knowledge of both the damage and the obligees liable for compensation. The statues of limitation shall be ten years since the harassing conduct or other wrongful acts were committed.
- Article 31 After employees or applicants make prima facie statements of the discriminatory treatment, the employers shall shoulder the burden to prove the non-sexual or non-sexual-orientation factor of the discriminatory treatment, or the specific sexual factor necessary for the employees or the applicants to perform the job.
- Article 32 Employers may establish grievance procedures to conciliate and handle the complaint filed by employees.
- Article 33 When employees find out that employer contravene the stipulations of Articles 14 to 20 of the Act, they may file complaints to the local competent authorities.
When they file complaints to the Central Competent Authority, the Authority shall refer the complaints to the local competent authorities after it receives the complaint or within seven days after the date it has found out the above-mentioned contraventions. Within seven days after the local competent authorities have received the complaints, they shall proceed to investigate and may mediate the matters for the both parties in accordance with their competences and authorities.
The measures for handling the complaints referred to in the preceding paragraph shall be prescribed by the local competent authorities.
- Article 34 After employees or applicants find out that employers contravene the stipulations of Articles 7 to 11, Article 13, Article 21, or Article 36 of the Act and file complaints the matter to the local competent authorities, if the employers, employees or applicants are not satisfied with the decisions made by the local competent authorities, they may apply to the Committee on Gender Equality in Employment of the Central Competent Authority for review or file an administrative complaint directly within ten days. If the employers, employees or applicants are not satisfied with the decisions made by the Committee on Gender Equality in Employment of the Central Competent Authority, they may file administrative complaints and proceed administrative lawsuits pursuant to the procedures of the Administrative Appeals Act and the Administrative Lawsuits Act.
The measures for handling the review of the complaints referred to in the preceding paragraph shall be prescribed by the Central Competent Authority.
- Article 35 When courts or competent authorities determines the facts of discriminatory treatments, they shall examine the investigation reports, rulings and decisions rendered by the committees on gender equality in employment.
- Article 36 Employers may not terminate, transfer or take any disciplinary action that is adverse to employees who personally file complaints or assist other persons to file complaints pursuant to the Act.

- Article 37 The competent authorities shall provide necessary legal aid when employees or applicants who file lawsuits in courts because of any violation of the Act by their employers.
The measures for providing legal aid referred to in the preceding paragraph shall be prescribed by the Central Competent Authority.
When employees or applicants file lawsuits referred to in the preceding paragraph and apply for precautionary proceedings, the courts may reduce or exempt the amounts for surety.

Chapter VI Penal Provisions

- Article 38 Employers who violate the stipulations of Article 21, or Article 36 of the Act, shall be fined no less than N.T.\$ 10,000 but not exceeding N.T.\$ 100,000.
- Article 38-1 Employers who violate the stipulations of Articles 7 to 10, Paragraphs 1 and 2 to Article 11, the final part of Paragraph 1 and Paragraph 2 to Article 13 of the Act, shall be fined no less than N.T.\$ 100,000 but not exceeding N.T.\$ 500,000.

Chapter VII Supplementary Provisions

- Article 39 The enforcement rules of the Act shall be prescribed by the Central Competent Authority.
- Article 40 The Act shall become effective on March 8, 2002.
The effective date of revised Article 16 made on December 19, 2007 shall be determined by the Executive Yuan.