

Chapter 1 Basic Policy for Eliminating Discrimination against Persons with Disabilities

The “Basic Policy for Eliminating Discrimination against Persons with Disabilities” based on the “Act for Eliminating Discrimination against Persons with Disabilities” (hereinafter referred to as the “Act for Eliminating Discrimination”) was endorsed by the Cabinet on February 24, 2015. This chapter explains the outline of the Act for Eliminating Discrimination in Section 1, the content of the Basic Policy in Section 2, and the efforts to be made for the enforcement of the Act for Eliminating Discrimination in the future.

Section 1 About the Act for Eliminating Discrimination

1 Background

“The Convention on the Rights of Persons with Disabilities” or “CRPD,” the first global treaty for persons with disabilities, was adopted in 2006 and took effect in 2008. It defines measures, etc., to realize the rights of persons with disabilities to ensure the sharing of human rights and fundamental freedom of persons with disabilities and promote the respect for inherent dignity of the said persons. The Convention on the Rights of Persons with Disabilities, which was adopted in 2006 and became effective in 2008, requires signatories to take appropriate measures to prohibit discrimination on the basis of disability, including denial of reasonable accommodation, and, in Japan, when the Basic Act for Persons with Disabilities was revised in 2011, “prohibition of discrimination” was stipulated as a “basic principle” in Article 4 of the said Act to reflect the objective of the provisions regarding the prohibition of discrimination in the Convention on the Rights of Persons with Disabilities.

The Act for Eliminating Discrimination is intended as a means to realize the said provisions and was enacted in June 2013 for the purpose of promoting the elimination of discrimination on the grounds of disability in order to realize a society where no citizens are treated differently on the basis of whether or not they have disability and where all citizens can coexist with mutual respect for one another’s personalities and individuality. (See Figure 1 for a summary of the Act.)

2 Outline

(1) Scope of the Act

This Act deals with all fields relevant to the independence and social participation of persons with disabilities, including employment, education, medical services and public transportation. Note that concrete measures for the elimination of discrimination in the field of employment (the parts corresponding to Article 7 through Article 12 of this Act) are considered to be secondary to the associated provisions of the Act for Employment Promotion of Persons with Disabilities.

(2) Prohibition of Discrimination on the Grounds of Disability

This Act classifies discrimination on the grounds of disability into two categories, which are “unfair discriminatory treatment” and “failure to provide reasonable accommodation.”

“Unfair discriminatory treatment” refers to acts including refusing, restricting, or adding conditions to the provision of goods and services simply due to someone’s disabilities without justifiable grounds, and all entities are prohibited from committing such acts regardless of whether they are the national government, local governments, or businesses

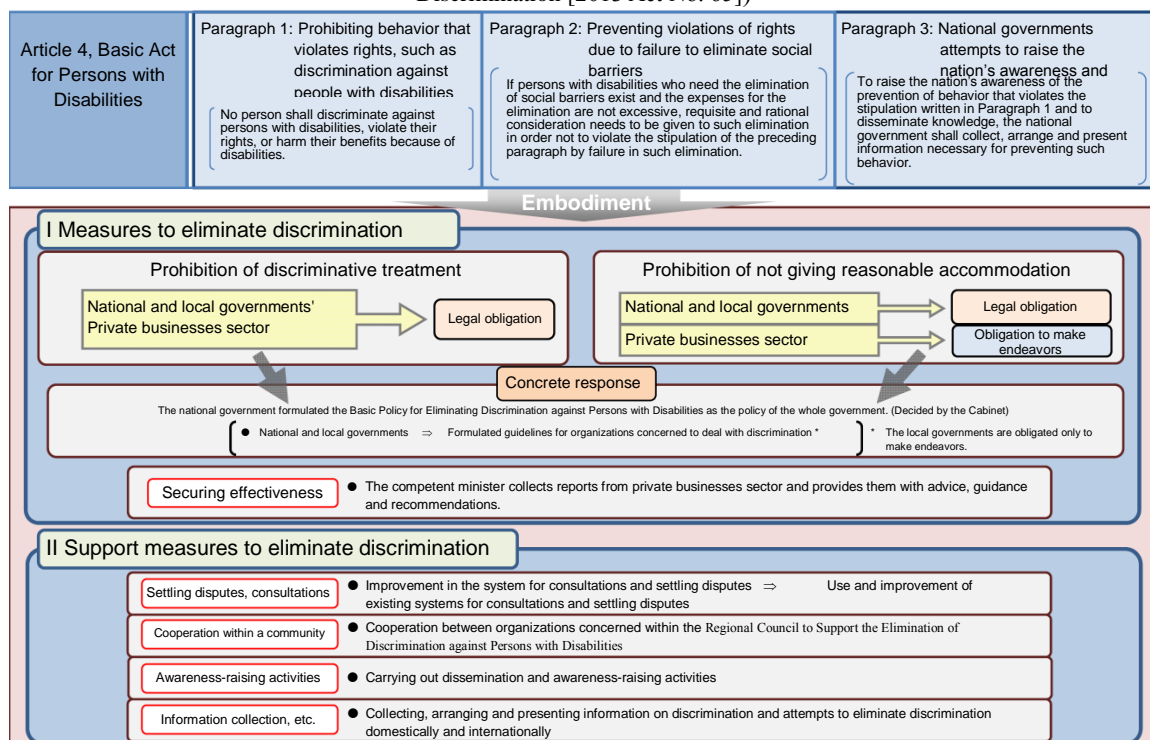
sectors.

Also, if a person with a disability himself/herself or a person to assist his/her communication including his/her family and assistant, expresses his/her intent to ask for some kind of accommodation, all entities are required to provide necessary and reasonable accommodation in order to remove social barriers (hereinafter referred to as “reasonable accommodation”) as long as providing reasonable accommodation is not an excessive burden to those entities. Typical examples of reasonable accommodation are as follows: helping persons who use wheelchairs when they enter or exit vehicles, and answering persons with disabilities by using appropriate means of communication (including reading aloud and writing) depending on the nature of their disabilities. If the rights and interests of persons with disabilities are infringed due to failure to provide such accommodation, such failure falls under discrimination on the grounds of disability. However, the obligation to provide reasonable accommodation is not uniformly imposed on all entities. The obligation to provide reasonable accommodation is imposed on organizations including governmental agencies as entities that ought to take the lead in implementing these measures, while the obligation to provide reasonable accommodation is limited to the obligation to make endeavors for businesses sectors.

This limitation is based on the fact that this Act is broad in scope and that the relationship between persons with disabilities and businesses sectors depends on the specific situation, which means that reasonable accommodation can take various forms.

■ Figure 1

Outline of the Act for Eliminating Discrimination against Persons with Disabilities (Act for Eliminating Discrimination [2013 Act No. 65])



Date of enforcement: 1st April, 2016 (the necessary review will be considered over the next three years after enforcement)

(3) Specification of the Details of Discrimination According to the Handling Guidelines and Handling Directions and Assurance of Effectiveness

What specifically falls under “unfair discriminatory treatment” and what is specifically required as “reasonable accommodation,” shall be examined according to the specific situation and it would be difficult to list such matters in laws in advance. Therefore, in order to appropriately comply with the prohibition of discrimination against persons with disabilities and promote voluntary efforts to eliminate discrimination against persons with disabilities, examples of unfair discriminatory treatment and good cases of reasonable accommodation shall be indicated in Handling Guidelines and Handling Directions in the future.

a. Efforts of Organizations Including Governmental Agencies

Each entity, including governmental agencies such as the national government and local governments, shall determine “Handling Guidelines” of their own to enable personnel working at each organization to respond appropriately and conduct efforts on the basis of the Handling Guidelines.

If personnel working at organizations including governmental agencies have violated the rights of persons with disabilities, the resulting situation shall be rectified by various means, such as through systems to enforce the regulations within governmental agencies and systems for administrative counseling operated by the Ministry of Internal Affairs and Communications (MIC), that receives various complaint from the people and offers the mediation necessary for their resolution.

b. Efforts of Businesses Sectors

As a framework for efforts to eliminate discrimination on the grounds of disability to be conducted appropriately by businesses sectors, this Act shall provide for the ministers who hold jurisdiction over each field of business (hereinafter referred to as “Competent Ministers”) to prepare “Handling Directions” and promote voluntary contribution by businesses sectors.

Also, it has been decided that the Competent Ministers may request reports, give advice, give guidance, and give recommendations to businesses sectors if it is deemed to be especially necessary.

(4) Support Measures by the National Government and Local Governments

a. Development of Counseling and Dispute Resolution System

Counseling and dispute resolution for persons with disabilities are already being provided according to the situation through various systems including administrative counseling operated by the MIC along with its administrative counselors, and investigations and relief for cases of human rights violations as well as human rights counseling by Legal Affairs Bureaus, District Legal Affairs Bureaus, and Civil Rights Commissioners.

Therefore, this Act does not assume establishing new organizations and basically enhances the system by utilizing existing organizations.

b. Regional Council to Support the Elimination of Discrimination against Persons with Disabilities

Also, with a view to building networks to promote counseling and dispute prevention and resolution relating to discrimination on the grounds of disability in communities, organs of the national government and local governments that engage in medical services, nursing care, education and other fields relevant to the independence and social

participation of persons with disabilities are to be able to organize Regional Council to Support the Elimination of Discrimination against Persons with Disabilities (hereinafter referred to as “Council”) within the boundaries of local governments.

The Councils may include as members representatives of bodies found to be necessary for the Council including NPOs and academic experts, in addition to national and local governmental agencies. Thus, it is expected that systems will be built that do not give rise to so-called “the runaround” and that counseling and dispute resolution in each region as a whole will be improved, through configuring networks between agencies concerned and cooperation among various entities. In addition, an obligation of confidentiality is imposed on persons who are engaged in work for the Councils and persons who have been engaged in work for the Councils.

c. Dissemination, Awareness-raising, etc.

In addition, it has been decided that the national government and local governments shall conduct awareness-raising activities necessary for the elimination of discrimination and further, that the national government shall collect, arrange, and provide information relating to efforts for the elimination of discrimination against persons with disabilities.

(5) Effective Date

In order for efforts toward the elimination of discrimination to be conducted smoothly, it will be essential to appropriately determine the Basic Policy, Handling Guidelines and Handling Directions while fully taking into consideration the opinions of the entities concerned and to familiarize the public with details of the Basic Policy. Therefore, Handling Guidelines and Handling Directions in conjunction with the objectives of this Act, the effective date of this Act shall be April 1, 2016.