

Section 2 Recent Trends Including Revision of Basic Law (2011)

1 Promotion of Institutional Reform

(1) Organizations to Promote Institutional Reform

In December 2009, as the successor of the “Headquarters for Measures for Persons with Disabilities,” the “Headquarters for Institutional Reform for Persons with Disabilities” was established by the Cabinet. Under the supervision of the Headquarters, the “Committee for the Promotion of Institutional Reform for Persons with Disabilities” (hereinafter referred to as “Promotion Committee”) mainly composed of parties concerned with disabilities (persons with disabilities and their families) was convened. The Promotion Committee submitted the “Primary Report” in June 2010 and the “Secondary Report” in December of the same year to the head of the Headquarters (the Promotion Committee was abolished in July 2012 due to the inauguration of the Commission on Policy for Persons with Disabilities [mentioned below]).

In response to the Primary Report by the Promotion Committee, “About the Basic Direction of Promotion of Institutional Reform for Persons of with Disabilities” was endorsed by the Cabinet in December 2010. The basic concept of the Cabinet Decision is “realization of a cohesive society where members of society mutually respect differences and diversity of individuality, and coexist with mutual acceptance for one another’s personalities with or without disabilities.” As the directions of reform on primary issues, 1) realization of living in regional society and building an inclusive society and 2) clarification and perception of its definitions of disability were specified. As the basic directions of reform on cross-sectional issues and future programs, three points including; 1) the revision of the Basic Act for Persons with Disabilities and system for reform promotion; 2) enactment of the Act on Elimination of Discrimination on the Grounds of Disability; and 3) enactment of the “Act on Comprehensive Welfare for Persons with Disabilities” (tentative name) were specified. Also, the basic directions and future directions of reform in each field were briefly described.

2 Revision of Basic Act for Persons with Disabilities and Summary of Revision

In March 2011, the Bill on the Partial Revision of the Basic Act for Persons with Disabilities was formulated by Headquarters for Institutional Reform for Persons with Disabilities, which was endorsed by the Cabinet and submitted to the Diet in April of the same year.

The Bill was partially amended during the deliberations of the Diet, resulting in the addition of provisions that prescribe disaster prevention and protection of persons with disabilities as consumers, and was unanimously passed and enacted as an act by the House of Representatives in June of the same year and by the House of Councilors in July of the same year; supplementary resolution was attached to the Act and the Act became effective in August of the same year (the paragraph relating to the “Commission on Policy for Persons with Disabilities” became effective on May 21, 2012).

The objective, definitions and basic principles of the Revised Act are as follows.

As for the objective of the Act, in order to promote measures for persons with disabilities in accordance with the purpose of the Convention on the Rights of Persons with

Disabilities, the revisions were made with a view to newly specifying an ideal way of understanding persons with disabilities as defined by the said Convention and the ideal society we should be seeking, as well as clarifying the objectives of the measures. Also, it was newly prescribed as the objective of the Act to regard persons with disabilities as agent who independently participate in every activity in society based on their own decisions with necessary support, and to realize a society where persons with disabilities can coexist with other people without distinction in every field.

In the provisions in the definitions, based on the provisions of the Convention on the Rights of Persons with Disabilities, a concept about persons with disabilities based on a so-called social model was incorporated, which is the concept that the limitations that persons with disabilities suffer from in daily life or their social lives are caused by the relationship between individual functional limitation and the state of their society.

As for the basic principles of the Act, the prohibition of discrimination, including the promotion of cohabitation in the community and international cooperation were stipulated, and the concept of “reasonable accommodation,” which was defined by the Convention on the Rights of Persons with Disabilities, was incorporated in the principles. Also, it was decided that the Council reorganized into the “Central Council for the Promotion of Measures for Disabled Persons” as an organization that monitors measures for persons with disabilities in Japan and gives recommendations to the Prime Minister as necessary.

A summary of this Act is shown in Figure 14.

(Also refer to “About the Revision of the Basic Act for Persons with Disabilities” (August 2011), on the website for the Cabinet Office, the Policy of Persons with Disabilities (<http://www8.cao.go.jp/shougai/suishin/kihonhou/kaisei2.html>)).

3 Main Recent Trends

(1) Main Relevant Acts Recently Enacted

a. “Act on Abuse Prevention for Persons with Disabilities”

In order to promote measures relating to the prevention of abuse of persons with disabilities by determining measures to protect persons with disabilities who have suffered from abuse and to support the guardians of persons with disabilities, the “Act on Prevention of Abuse of Persons with Disabilities and Support for Guardians of Persons with Disabilities” (Act on Abuse Prevention for Persons with Disabilities) was enacted in June 2011, and became effective in October 2012.

b. “Act on Comprehensive Support for Persons with Disabilities”

Based on the revision of the Basic Act for Persons with Disabilities and discussions within entities including the Headquarters for Institutional Reform for Persons with Disabilities, in order to take new measures for the health and welfare of persons with disabilities to realize coexistence in local communities, the “Act on Comprehensive Support for the Daily Lives and Social Lives of Persons with Disabilities” (Act on Comprehensive Support for Persons with Disabilities) was enacted in June 2012, and became effective in April 2013 (a portion of the Act became effective in April 2014).

c. “Act on Promotion of Priority Procurement for Persons with Disabilities”

The “Act on Promotion of Procurement of Goods Supplied by Facilities Where Persons with Disabilities Work by the National Government” (Act on Promotion of Priority Procurement for Persons with Disabilities), which specifying what is necessary to ensure opportunities to receive orders for facilities where people with disability work, was enacted in June 2012, and became effective in April 2013. It was intended to increase the demand for goods supplied by facilities where persons with disabilities work and to contribute to the promotion of the independence of persons with disabilities including those who have started working at these facilities and persons with disabilities who work at home.

d. “Act on the Partial Revision of the Public Offices Election Act for the Recovery of the Right to Vote of Adult Wards”

The “Act on the Partial Revision of the Public Offices Election Act for the Recovery of the Right to Vote of Adult Wards” (Act No. 21 of 2013) was enacted as lawmaker-initiated legislation and became effective in June 2013.

As a result, the regular election for the members of the House of Councilors was held in July 2013 as the first national election, since the recovery of the right of adult wards to vote.

e. Partial Revision of “Act for Employment Promotion of Persons with Disabilities”

The Subcommittee on Employment of persons with disabilities at the Labor Policy Council issued a written summary of the opinions of the Subcommittee, “About the Enhancement and Strengthening of Future Measures for the Employment of Persons with Disabilities” in March 2013.

Based on this, in April of the same year, the “Bill on the Partial Revision of the Act for Employment Promotion of Persons with Disabilities,” prescribes measures to prohibit discrimination against persons with disabilities in the field of employment, and prescribes to include persons with mental disability in calculating the legally mandated employment rate, was endorsed by the Cabinet and submitted to the Diet, and in June of the same year, this bill was passed. The “Guidelines on Prohibition of Discrimination against Persons with Disabilities” and “Guidelines on Reasonable Accommodation” based on this Act were established in March 2015. (See Chapter 5 for details.)

■ Figure 13

Law for revising a part of Basic Act for Persons with Disabilities (outline)		Enacted: July 29 th , 2011 Issued: August 5 th , 2011
General Provisions (become effective on day of promulgation)		
<p>1) Revision of purpose (relevant to Article 1) In accordance with the principle that all citizens, regardless of whether or not they have a disability, should be entitled to dignity as irreplaceable individuals enjoying fundamental human rights, provides for the basic principles relating to the measures to support the independence and social participation of persons with disabilities in order to ensure that no citizens are divided according to whether or not they have a disability as well as the realization of a society of coexistence with mutual respect for personality and individuality.</p> <p>2) Revision of definitions (relevant to Article 2) Persons with a physical disability, a person with an intellectual disability, a person with a mental disability (including developmental disabilities) and others, who are in a state of facing substantial limitations in their continuous daily life or social life owing to a disability or a social barrier (items, institutions, practices, ideas, and other things in society that stand as obstacles against persons with disabilities engaging in daily life or social life).</p> <p>3) Coexistence in the Local Community (relevant to Article 3) Assuming that all persons with disabilities should be entitled to dignity as individuals enjoying fundamental human rights equally to persons without disabilities, and possess the right to be guaranteed a life befitting of such dignity, the realization of the society provided for in Article 1 must be achieved to the effect of the following matters. - All persons with disabilities are guaranteed the opportunity to participate in activities in society, the economy, culture, and other fields as constituent members of society. - All persons with disabilities are guaranteed the opportunity, insofar as possible, to choose where and with whom they live, and are not precluded from co-existing with other people in the local community. - All persons with disabilities are guaranteed the opportunity, insofar as possible, to choose their language (including sign language) and other means of communication for mutual understanding; and opportunities for them to choose the means of acquisition or use of information will be expanded.</p> <p>4) Prohibition of Discrimination (relevant to Article 4) - No person may commit action of discrimination or any other act which violates interests or rights against a person with a disability on the basis of the disability. - When a person with a disability currently requires the removal of a social barrier and if the burden associated with said implementation is not excessive, necessary and reasonable accommodation must be given to implementing the removal of the social barrier. - the national government is to collect, organize, and provide necessary information in order to prevent such action.</p> <p>5) International Cooperation (relevant to Article 5) The realization of the society provided for in Article 1 must be conducted under the framework of international cooperation</p> <p>6) Public Understanding (relevant to Article 7)/ Public Responsibilities (relevant to Article 8) - The national government and local public entities must take the necessary measures to increase public understanding concerning the basic principles prescribed in 3) to 5). - The people must endeavor to contribute to the realization of the society provided for in Article 1 in accordance with the basic principles.</p> <p>7) Basic Policy for the Measures (relevant to Article 10) - The measures must be implemented in accordance with the sex, age, state of the disability, and lifestyle of a person with a disability. - The national government and the local public entities must hear the opinions of persons with disabilities and other relevant persons and endeavor to respect such opinions.</p>		
Basic Measures (become effective on day of promulgation)		
<p>1) Medical Care, Nursing Care (relevant to Article 14) - necessary measures to provide necessary medical care benefits and rehabilitation in order for persons with disabilities to restore, acquire, or maintain their vital lifestyle functions. - necessary measures when providing medical care, nursing care benefits to ensure that persons with disabilities are able insofar as possible to receive them at a place close to them, and in addition, must fully respect their human rights in doing so.</p> <p>2) Education (relevant to Article 16) - Accommodation to children and students with disabilities being able to receive their education together with children and students without disabilities, to receive a full education based on their age and capabilities and in accordance with their particular characteristics, and necessary measures to improve and enhance the contents and methods of the education. - Provide sufficient information to children and students with disabilities and their parents or guardians and respect their wishes insofar as possible - Surveys and research, secure personnel and improve their qualities, provide suitable educational materials, prepare school facilities, and otherwise develop a suitable environment.</p> <p>3) Medical Care and Childcare (relevant to Article 17) - Necessary measures so that children with disabilities are able insofar as possible to receive medical care and childcare in their neighborhood and other related support. - Research, development and expansion relating to medical care and childcare, train officers who possess expert knowledge and skills, and otherwise promote the development of a suitable environment.</p> <p>4) Work Counseling (relevant to Article 18) - Secure diverse employment opportunities and implement vocational counseling, vocational training and other necessary measures giving consideration to the particular characteristics of each individual person with a disability.</p> <p>5) Promotion of Employment (relevant to Article 19) - Priority employment to persons with disabilities and take other necessary measures in order to promote the employment of persons with disabilities by the national government and local public entities and employers. - Secure appropriate employment opportunities and proper employment management in accordance with the particular characteristics of an individual person with a disability.</p> <p>6) Securing Housing (relevant to Article 20) - Secure housing for persons with disabilities and promote the preparation of housing suited to the daily living of persons with disabilities to enable persons with disabilities to live a stable life in the local community.</p> <p>7) Access to Public Facilities (relevant to Article 21) - Implement systematic promotion of measures such as preparing the structures and equipment of facilities so that persons with disabilities are able to smoothly use them with regard to government facilities, transportation facilities (including transportation facilities such as vehicles, ships, and aircraft.</p> <p>8) Access to Information (relevant to Article 22) - Training and dispatching staff to mediate in communications for persons with disabilities so that persons with disabilities are able to acquire and use information smoothly, and express their intentions, and so that they are able to communicate with other people. - Taking necessary measures so that necessary information is quickly and accurately relayed to persons with disabilities in order to ensure safety in cases of disasters or other emergencies.</p> <p>9) Counseling, etc. (relevant to Article 23) - Consideration to supporting the decision-making of persons with disabilities, ensuring the counseling services for persons with disabilities, their families and other related persons. - Develop the necessary counseling framework so as to be able to respond comprehensively to various consultations from persons with disabilities, their families, and other, and the support of activities for families of persons with disabilities to support each other and other forms of supports.</p> <p>10) Development of Cultural Conditions (relevant to Article 25) - Necessary measures so that persons with disabilities are able to smoothly engage in cultural and artistic activities and sports or recreation.</p> <p>11) (New) Disaster Prevention and Crime Prevention (relevant to Article 26) - Necessary measures relating to disaster prevention and crime prevention in accordance with the sex, age, state of the disability, and lifestyle of persons with disabilities so that persons with disabilities are able to lead a safe and stable life in the local community.</p> <p>12) (New) Protection of Persons with Disabilities as Consumers (relevant to Article 27) - Provide information in an appropriate manner and take other necessary measures so that the interests of persons with disabilities as consumers are protected and promoted.</p> <p>13) (New) Consideration in Elections (relevant to Article 28) - Develop facilities or equipment for polling stations and take other necessary measures so that persons with disabilities are able to smoothly vote at an election.</p> <p>14) (New) Consideration in Judicial Proceedings (Article 29) - Accommodation to securing a means of communication in accordance with the characteristics of individual persons with disabilities, provide training for relevant officers, and take other necessary measures so that persons with disabilities are able to smoothly exercise their rights in cases where a person with a disability has become subject to procedures relating to a criminal case or become a party or some other relevant person in the proceedings of a civil case.</p> <p>15) International Cooperation (relevant to Article 30) - Exchange information with foreign governments, international organizations, and other relevant bodies and take other necessary measures.</p>		
Commission on Policy for Persons with Disabilities (become effective on day of promulgation)		Supplementary Provisions
<p>Establishment of the Commission on Policy for Persons with Disabilities (government) (relevant to Article 32-35) - Reorganize Central Council for Promoting Measures with Persons with Disabilities, and instead, establish "Commission on Policy for Persons with Disabilities" in Cabinet Office. (The members are to be appointed by Prime Minister from Persons with Disabilities, those who are engaged in businesses relating to independence and social participation of persons with disabilities, and academic experts.) - Investigate and discuss about the formulation of Basic Program for Persons with Disabilities, and provide their opinions, and observe and recommend about the situation of implementation of this program.</p> <p>Body with a Council System in a Prefectural Government (local) (relevant to Article 36) - Reorganize local Councils for Promotion of Measures for Persons with Disabilities, and add observation work of the situation of implementation of the measures concerning persons with disabilities to affairs under the jurisdiction.</p>		<p>Review (relevant to Supplementary Provisions Article 2) - When three years has passed after enforcement, the situation of implementation shall be reviewed, and the necessary measures taken based on the result. - Based on the situation of implementation of the measures depending on nature of disability, ensure the cooperation between healthcare, medical and welfare services in a local community, and other ways of support systems for persons with disabilities shall be deliberated, and the necessary measures shall be taken based on the results.</p>

Source: Cabinet Office

f. “Act for Eliminating Discrimination”

In order to realize a society where no citizens are treated differently on the basis of whether or not they are disabled, and where all citizens can coexist with mutual respect for one another’s personalities and individuality, the “Act for Eliminating Discrimination against Persons with Disabilities” (Act for Eliminating Discrimination) was enacted in June 2013. The “Basic Policy for Eliminating Discrimination against Persons with Disabilities,” which indicates the basic direction of measures by the government based on this Act, was endorsed by the Cabinet in February 2015 after the hearings, discussions, etc. by the Commission on Policy for Persons with Disabilities.

(See Chapter 1 for details of the Basic Policy.)

g. “Act for Partial Revision of Act on Mental Health and Welfare for Persons with Mental Disabilities”

To promote moving of persons with mental disabilities into communities, the “Act for Partial Revision of Act on Mental Health and Welfare for Persons with Mental Disabilities” intended to establish the guidelines on the medical care for persons with mental disabilities, abolish the guardian system, and review the hospitalization procedure in the Hospitalization for Medical Care and Protection was enacted in June 2013 and enforced in April 2014 (partially to be enforced in April 2016).

h. “Act on Medical Care and Social Supports for Patients with Intractable/Rare Diseases”

The “Act on Medical Care and Social Supports for Patients with Intractable/Rare Diseases” was enacted in May 2014 and enforced in January 2015 to adopt measures based on the “Act for Promoting Reform for Establishing the Sustainable Social Welfare System” such as establishment of a fair and stable system that can allocate the revenue from consumption tax to the expense for medical subsidy for patients with intractable/rare diseases designated by law, establishment of basic policy, promotion of survey and research, and implementation of an environment development project for life with medical treatment. (See Chapter 6.)

(2) International Efforts

In anticipation of the end of the “Second Asian and Pacific Decade of Persons with Disabilities” (2003 - 2012) organized by ESCAP, a meeting on efforts to be made after 2013 in the Asia-Pacific region was held by the representatives of concerned states within the UN Economic and Social Commission for Asia and the Pacific (ESCAP) and discussions on the next “Decade” made progress. In November 2012, at the ESCAP meeting held in Incheon, South Korea, the “Incheon Strategy,” which is the action program for the “Third Asian and Pacific Decade of Persons with Disabilities” was adopted, and according to this Strategy, efforts are made in each state including Japan.

(See Section 2, Chapter 4 for the ratification of the Convention on the Rights of Persons with Disabilities by Japan.)

(3) Formulation of Basic Program for Persons with Disabilities (Third)

At the final year of the Second Program, based on the trends in international society

mentioned above and progress of past domestic efforts, the Commission on Policy for Persons with Disabilities conducted new investigations and discussions starting in July 2012. As a result, the Commission on Policy for Persons with Disabilities made a summary of the “Opinion of the Commission on Policy for Persons with Disabilities Relating to the New ‘Basic Program for Persons with Disabilities,’” and submitted it to the Prime Minister on December 17, 2012.

For this, the government prepared a draft of the New Basic Program for Persons with Disabilities based on the ideas expressed in the opinions of the Commission on Policy for Persons with Disabilities, and heard of the opinions of the Commission on Policy for Persons with Disabilities about the draft. Based on the opinions of the Commission on Policy for Persons with Disabilities and opinions proposed via public comment, the Basic Program for Persons with Disabilities (Third) (hereinafter referred to as “Third Program”) was formulated (endorsed by the Cabinet on September 27, 2013). It was decided that the government shall further promote measures to support the independence and social participation of persons with disabilities, in order to realize a cohesive society where all citizens respect and support the personalities and individuality of others regardless of whether or not they have disabilities.

[Characteristics of Third Program]

(1) Reconsideration of Basic Principles of Measures for Persons with Disabilities

As mentioned above, a) coexistence in community, b) eliminating discrimination and c) international cooperation were incorporated into the Third Program as basic principles of the Program based on the details of the revision of the Basic Act for Persons with Disabilities in 2011.

(2) Reconsideration of Length of Program

Based on the rapid changes in the socioeconomic situation surrounding recent measures for persons with disabilities, although the length of the program had been ten years for the Second Program, it was reconsidered and changed to five years this time (from FY2013 to FY2017).

(3) Addition of Fields for Measures and Reconsideration of Measures for Existing Fields

Based on the revision of the Basic Act for Persons with Disabilities (2011) and the enactment of the Act for Eliminating Discrimination (2013), the following three fields were added.

- III. 7. Safety and security (disaster prevention, recovery from the Great East Japan Earthquake, crime prevention, consumer protection, etc.)
- III. 8. Eliminating discrimination and advocacy (promotion of elimination of discrimination on the grounds of disability, disability abuse prevention, etc.)
- III. 9. Accommodation in administrative services, etc. (accommodation during voting and procedures including judicial procedures, etc.)

Also, the existing fields previously listed in the Second Program had enhanced and reconsidered, based on new legislation relating to recent measures for persons with disabilities. The details of the revision of the Basic Act for Persons with Disabilities include enhancement of welfare services according to the needs of children and persons

with disabilities (III. 1. (2) (3)), promotion of the moving of persons with mental disabilities into communities (III. 2. (2)), establishment of a new system for deciding school admissions (III. 3. (1)), promotion of employment of persons with disabilities and enhancement of job support (III. 4. (1) (2)) and ensuring the standards of the working status of persons with disabilities at work center through promotion of priority procurement (III. 4. (3) (4)).

(4) Setting Goals for Results and Strengthening Systems of Implementation for Program

To ensure the effectiveness of the Program, 45 goals for results were set. Also, assessment and monitoring of the status of the implementation of the Program by the Commission on Policy for Persons with Disabilities on the basis of the Basic Act for Persons with Disabilities and the enhancement of information and data relating to measures for persons with disabilities are expressly mentioned.

■ Figure 14 Summary of Third Basic Program for Persons with Disabilities

