

# Act on Regulation and Punishment of Acts Relating to Child Prostitution and Child Pornography, and the Protection of Children

(Act No. 52 of May 26, 1999)

## Chapter I General Provisions

( Purpose)

Article 1 The purpose of this Act is, in light of the gravity that sexual exploitation and sexual abuse of children seriously infringe upon their rights and taking into account international trends related to the protection of the rights of children, to protect the rights of children by regulating and punishing acts, etc. relating to Child Prostitution and Child Pornography, and by providing measures for the protection of children who have consequently suffered physically or mentally from the acts, etc.

(Definitions)

Article 2 (1) The term "Child" as used in this Act means a person under 18 years of age.

(2) The term "Child Prostitution" as used in this Act means Sexual Intercourse, etc. (sexual intercourse or any conduct similar to sexual intercourse, or, with the purpose of satisfying one's sexual curiosity, touching Genital Organs, etc. (meaning genital organs, anus or nipples; the same applies hereinafter) of a Child or having a Child touch one's own genital organs; the same applies hereinafter) with a Child in return for giving or promising remuneration to any person who falls under any of the following items:

(i) the Child;

(ii) the person who has intermediated sexual intercourse with the Child; and

(iii) the guardian of the Child (the person who exercises parental authority, the guardian of the minor or any other individual who is taking actual custody of the Child; the same applies hereinafter) or the person who has the Child under control.

(3) The term "Child Pornography" as used in this Act means photographs, recording medium containing electronic or magnetic records (meaning a record used in computerized information processing which is created in electronic form, magnetic form, or any other form that cannot be perceived by the human senses; the same applies hereinafter) or any of the following medium which depicts the image of a Child, in a form recognizable by the sense of sight:

(i) any image of sexual intercourse or any conduct similar to sexual intercourse

- with a Child or between Children;
- (ii) any image of a Child having the Genital Organs, etc. touched by another person or of a Child touching another person's Genital Organs, etc. which arouses or stimulates sexual desire; or
  - (iii) any image of a Child wholly or partially naked, in which sexual body parts of the Child (genital organs or the parts around them, buttocks or chest) are exhibited or emphasized and arouses or stimulates sexual desire.

(Precautions in applying this Act)

Article 3 In applying this Act, care must be taken not to improperly infringe upon the rights and freedoms of citizens relating to academic research, cultural and artistic activity and press, and the Act is not to be abused for other purposes deviating from the original purpose of protecting Children from sexual exploitation and sexual abuse and protecting their rights.

(Prohibition of Child Prostitution, Possession of Child Pornography, and other Acts Relating to Sexual Exploitation and Sexual Abuse of Children)

Article 3-2 It is prohibited for any person to commit Child Prostitution, to possess Child Pornography or retain electronic or magnetic records falling under any of the items of paragraph 3 of Article 2 depicting the image of a Child in a form recognizable by the sense of sight without valid reason or to commit any other acts relating to sexual exploitation or sexual abuse of Children.

## **Chapter II Punishment of Acts Relating to Child Prostitution and Child Pornography**

(Child Prostitution)

Article 4 Any person who commits Child Prostitution is punished by imprisonment for not more than 5 years or a fine of not more than 3, 000, 000 yen.

(Intermediation in Child Prostitution)

Article 5 (1) Any person who intermediates in Child prostitution is punished by imprisonment for not more than 5 years or a fine of not more than 5, 000, 000 yen or both.

(2) Any person who intermediates in Child Prostitution with the intention of doing so on a regular basis is punished by imprisonment for not more than 7 years and a fine of not more than 10, 000, 000 yen.

(Solicitation of Child Prostitution)

Article 6 (1) Any person who solicits another person to commit Child Prostitution for the purpose of intermediating in Child Prostitution is punished by imprisonment for not more than 5 years or a fine of not more than 5, 000, 000 yen or both.

(2) Any person who solicits another person to commit Child Prostitution on a regular basis for the purpose set forth in the preceding paragraph is punished by imprisonment for not more than 7 years and a fine of not more than 10, 000, 000 yen.

(Possession and Provision of Child Pornography and Other Related Acts)

Article 7 (1) Any person who possesses Child Pornography for the purpose of satisfying one's sexual curiosity (limited to those who have come to possess it voluntarily, and are clearly deemed to as such.) is punished by imprisonment for not more than 1 year or a fine of not more than 1, 000, 000 yen. The same applies to any person who retains electronic or magnetic records falling under any of the items of paragraph 3 of Article 2 depicting the image of a Child in a form recognizable by the sense of sight for the purpose of satisfying one's sexual curiosity (limited to those who have come to retain it voluntarily, and are clearly deemed to as such.).

(2) Any person who provides Child Pornography is punished by imprisonment for not more than 3 years or a fine of not more than 3, 000, 000 yen. The same applies to any person who provides through telecommunication lines electronic or magnetic records falling under any of the items of paragraph 3 of Article 2 depicting the image of a Child in a form recognizable by the sense of sight or other records.

(3) Any person who produces, possesses, transports, imports to or exports from Japan Child Pornography for the purpose of the acts prescribed in the preceding paragraph is punished by the same penalty prescribed in the paragraph. The same applies to any person who retains the electronic or magnetic records prescribed in the preceding paragraph for the purpose of the same acts.

(4) Beyond the preceding paragraph, any person who produces Child Pornography by having a Child pose in a way falling under any of the items of paragraph 3 of Article 2, and depicting such pose in photographs, recording medium containing electronic or magnetic records or any other medium is punished by the same penalty prescribed in paragraph 2 of this article.

(5) Beyond the preceding two paragraphs, any person who produces Child Pornography by secretly depicting the pose of a Child falling under any of the items of paragraph 3 of Article 2, in photographs, recording medium containing electronic or magnetic records or any other is punished by the same penalty prescribed in paragraph 2 of this article.

- (6) Any person who provides Child Pornography to many or unspecified persons, or displays it in public is punished by imprisonment for not more than 5 years, a fine of not more than 5, 000, 000 yen or both. The same applies to any person who, through telecommunication lines, provides electronic or magnetic records falling under any of the items of paragraph 3 of Article 2 depicting the image of a Child in a form recognizable by the sense of sight or other records to many or unspecified persons.
- (7) Any person who produces, possesses, transports, imports to or exports from Japan Child Pornography for the purpose of the acts prescribed in the preceding paragraph is punished by the same penalty prescribed in the same paragraph. The same applies to any person who retains the electronic or magnetic records prescribed in the preceding paragraph for the purpose of the same acts.
- (8) Any Japanese national who imports or exports Child Pornography to or from a foreign country for the purpose of the acts prescribed in paragraph 6 of this article is punished by the same penalty prescribed in the same paragraph.

(Trafficking in Children for the Purpose of Child Prostitution)

- Article 8 (1) Any person who buys or sells a Child for the purpose of having the Child be a party to sexual intercourse in Child Prostitution, or for the purpose of producing Child Pornography depicting the pose of a Child falling under any of the items of paragraph 3 of Article 2, is punished by imprisonment for not less than 1 year and not more than 10 years.
- (2) Any Japanese national who transports a Child residing in a foreign state, who has been kidnapped by enticement or force or sold, out of that state is punished by imprisonment for a definite term of not less than 2 years.
  - (3) Any attempt to commit the offenses referred to in the two preceding paragraphs is also punishable.

(Knowledge of the Age of the Child)

Article 9 No one who uses a Child is exempt from punishment pursuant to the provisions of Articles 5, 6, paragraph 2 through 8 of Article 7 and the preceding article on the grounds of lacking knowledge of the age of the Child. However, this does not apply in cases where there is no negligence.

(Crimes Committed by Japanese Nationals outside Japan)

Article 10 The crimes prescribed in Articles 4 through 6, paragraphs 1 through 7 of Article 7, and paragraphs 1 and 3 (limited to the part related to paragraph 1 of the same article) of Article 8 are governed by Article 3 of the Penal Code (Law No. 45 of 1907).

(Dual Criminal Liability Provision)

Article 11 When a representative of a juridical person or a proxy, employee or any other staff member of a juridical person or of an individual has committed any of the crimes prescribed in Articles 5, 6, or paragraph 2 through 8 of Article 7 with regard to the business of the juridical person or individual, not only the offender is punished but also the juridical person or individual are punished by the fine prescribed in the respective articles.

(Consideration in the Course of Investigations and Trials)

Article 12 (1) Those who officially participate in investigations or trials of cases pertaining to the crimes prescribed in Articles 4 through 8 (referred to as "Related Officials" in the following paragraph) must pay due consideration to the human rights and peculiarities of Children and take care not to harm the reputation or dignity of the Children in performance of their duties.

(2) The national and local governments are to endeavor to train and enlighten Related Officials in order to deepen their understanding of the human rights and peculiarities of Children.

(Prohibition of Publication or Broadcasting on Children)

Article 13 With respect to a Child involved in a case pertaining to the crimes prescribed in Articles 4 through 8, written articles, photographs or broadcast programs which allow the Child to be identified from their contents, such as the name, age, occupation, name of the school, residence, appearance, etc. must not be published in newspapers or other publications or be broadcast.

(Education, Enlightenment, Research and Studies)

Article 14 (1) The national and local governments, in order to prevent such acts as Child Prostitution, the possession or provision of Child Pornography, are to endeavor to educate and enlighten the general public deepening their understanding of the human rights of Children, in light of the fact that such acts seriously affect the sound development of Children physically and mentally.

(2) The national and local governments are to endeavor to promote research and studies that contribute to the prevention of Child Prostitution and the possession, provision, etc. of Child Pornography.

**Chapter III Measures for the Protection of Children Who Have Suffered Physical or Mental Damage**

(Protection of Children Who Have Suffered Physical or Mental Damage)

Article 15 (1) The Ministry of Health, Labour and Welfare, Ministry of Justice,

Prefectural Police, Child Guidance Office, Welfare Office and other related national, prefectural and municipal administrative organs are to cooperate with one another and take proper measures to provide sufficient protection, such as consultation, guidance, temporary guardianship and admission into an institution, with regard to a Child who has suffered physical or mental damage as a result of having been a party to Child Prostitution or having been depicted in Child Pornography, taking into account the physical and mental condition and surroundings of the Child, in order to let the Child recover physically and mentally from the damage the Child has suffered and to enable the Child to grow up with personal dignity.

- (2) The related administrative organs prescribed in the preceding paragraph are to, when they find it necessary for the protection of the Child referred to in the same paragraph when taking the measures referred to in the same paragraph, take measures such as consultation, guidance and other measures towards the guardian.

(Improvement of Systems for the Protection of Children Who Have Suffered Physical or Mental Damage)

Article 16 In order to enable proper protection, based on expert knowledge, of Children who have suffered physical or mental damage as a result of having been a party to Child Prostitution or of having been depicted in Child Pornography, the national and local governments are to endeavor to establish and improve the systems necessary for promoting research and studies, improve the quality of those protecting such Children, reinforce the systems of cooperation and liaison among related organs in cases where there is urgent need of protection, and arrange systems of cooperation and liaison with private organizations.

(Verification of Measures Relating to the Protection of Children Who Have Suffered Physical or Mental Damage)

Article 16-2 (1) The Social Security Council and The Council for the Promotion of Policies for Crime Victims are to cooperate with one another and regularly verify and assess the implementation status of measures relating to the protection of Children who have suffered physical or mental damage as a result of having been a party to Child Prostitution or having been depicted in Child Pornography, by using the expertise of people who have professional knowledge and experience relating to the protection of the Child.

- (2) The Social Security Council or The Council for the Promotion of Policies for Crime Victims are to, in consideration of results of the verification and assessment prescribed in the preceding paragraph, when they find it necessary, give opinions respectively to the Minister of Health, Labour and Welfare or to

the related administrative organs about appropriate measures relating to the protection of the Child.

- (3) The Minister of Health, Labour and Welfare or the administrative organs, when the opinions prescribed in the preceding paragraph were given and they find it necessary, are to take necessary measures to protect the Child.

#### **Chapter IV Miscellaneous Provisions**

(The Endeavor of Business Operator Relating to the Use of Internet)

Article 16-3 In the light of the fact that the damage caused by the acts such as the possession and provision of Child Pornography easily expands through the internet, and the fact that it becomes particularly difficult to recover the rights of a Child by discarding or deleting Child Pornography once it has expanded both within and outside of Japan, the business operators who provide telecommunication services ("Telecommunication Services" as defined in article 2 paragraph 3 of the Telecommunications Business Act(Act No.86 of 1984).) necessary for the transmission of information to unspecified persons or for the viewing of the information using the internet are to endeavor to cooperate with criminal investigation authorities, take useful measures to prevent the transmission of information relating to Child Pornography based on the supervisory authority of the business operators or any other measures which contribute to prevent such acts using the internet.

(Promotion of International Cooperation)

Article 17 The national government is to endeavor to secure close international cooperation and promote international research and studies, in order to prevent the acts related to Articles 3-2 through 8 and to exercise proper and prompt investigation in such cases.

#### **Supplementary Provisions**

(Effective Date)

Article 1 (1) This Act comes into effect 20 days from the date of promulgation.

- (2) The provisions of paragraph 1 of Article 7 as revised by this Act do not apply for 1 year from the date of the enforcement of this Act.

(Transitional Measure)

Article 2 With regard to the application of penal provisions to acts committed prior to the enforcement of this Act, the provisions then in force remains applicable.

(Review)

- Article 3 (1) The government is to give sufficient consideration for promoting the development of technology to restrict viewing of the information relating to Child Pornography by the internet (hereinafter referred to as "the restriction of viewing by the internet" in the following paragraph).
- (2) The restriction of viewing by the internet is to be examined approximately 3 years after the date of enforcement of this Act, in consideration of the situation regarding the development of technology prescribed in the preceding paragraph, and necessary measures are to be taken based on the examination.