

## National Laws

Legislation of Interpol member states on sexual offences against children

# Japan - Japon - Japon

Tokyo

The information on this page is up to date as of spring 2006

Law for Punishing Acts Related to Child Prostitution and Child Pornography, and for Protecting Children.

**This is a temporary translated version of the New Law adopted by the Japanese Diet, in April 1999 related to Child Prostitution, Child Pornography and Sexual Abuse of Children committed by Japanese nationals abroad.**

### Article 1 - Objective

The objective of this Law is to protect the rights of children by prescribing punishment for acts related to child prostitution and child pornography, and by establishing measures including the giving of appropriate protection to children who have suffered physically and/or mentally from the said acts, in light of the fact that sexual exploitation and sexual abuse of children seriously infringe

## I. Ages for legal purposes

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### Article 2 - Definitions

For the purpose of this Law, a 'child' means a person under the age of 18 years.

#### Age of majority

The Article 3 of the Japanese Civil Code states that the age of majority is twenty (20) years old.

#### Age of consent for sexual activity

The Article 177 of the Penal Code puts the age of consent for sexual activity at thirteen (13) years.

#### Age of consent for marriage

Articles 731 and 737 of the Civil Code provide that the age of consent for marriage is eighteen (18) years for men, and sixteen (16) for women.

But when a minor wants to get married, he or she needs the consent of his or her parents.

## **II. Rape**

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### **'Rape', Art. 177 Penal Code**

'A person who, through violence or intimidation, has sexual intercourse with a female person of not less than thirteen (13) years of age commits the crime of rape and shall be punished with imprisonment at forced labour for a limited term of not less than two years. The same shall apply to a person who has sexual intercourse with a female person under thirteen (13) years of age.'

### **'Death or injury resulting from rape', Art. 181 Penal Code**

'A person who commits a crime provided in Articles 176 to 179 and thereby kills or injures another shall be punished with imprisonment at forced labour for life or for not less than three years.'

## **III. Other forms of child sex abuse**

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### **'Indecency through compulsion', Art. 176 Penal Code**

'A person who, through violence or intimidation, commits an indecent act upon a male or female person of not less than thirteen (13) years of age shall be punished with imprisonment at forced labour for not less than six months nor more than seven years. The same shall apply to a person who commits an indecent act upon a male or female person under thirteen (13) years of age.'

### **Common articles to rape and indecency**

### **'Constructive compulsory indecency and rape', Art. 178 Penal Code**

'A person who commits an indecent act upon or has sexual intercourse with another by taking advantage of loss of consciousness or inability to resist, or by causing a loss of consciousness or inability to resist, shall be punished in the same way as provided for in the preceding two Articles.'

### **'Attempts', Art. 179 Penal Code**

'Attempts of the crimes provided in the preceding three Articles shall be punished.'

### **'Complaint', Art. 180 Penal Code**

'(1) The crimes provided in the preceding four Articles shall be prosecuted only on complaint.'

(2)The provisions of the preceding paragraph shall not apply when the crimes mentioned in the preceding four Articles are committed jointly by two or more persons who are on the scene of the action.'

**Article 12 of the Yamanashi Prefecture Ordinance concerning cleanup of neighborhood moral environment for the protection and caring of minors**  
**'Any person shall not have indecent sexual activities or obscene conduct with minors.**

'A person should not give instructions in or show activities given above to minors.'

**Article 13 of the Yamanashi Prefecture Ordinance**

'Any person shall not offer or make arrangements for a place knowing that assaults, indecent sexual activities, obscene acts or gambling targeting involving minors will take place in the place,...

**Article 34 of the Child Welfare Law**

'Any person shall not do any of the following acts:

- 1) Making a public show of deformed or crippled children;
- 2) Forcing children to beg or to utilise a child while begging;
- 3) Forcing or inducing child under 15 years of age to perform acrobatic feats and circus riding for public entertainment;
- 4) Inducing children under 15 years of age to sign, play or perform from house to house, on the streets, or in similar places as business;
- 4)- 2 Inducing children to engage in selling, distributing, exhibiting or collecting any article, or to provide services from house to house, on the streets, or in similar places as business during the hours from 10 p.m. to 3 a.m.;
- 4)-3 Inducing children under 15 years of age to engage in selling distributing, exhibiting or collecting any articles, or to provide any services from house to house, on the streets or in similar places, or to enter, for the purpose of conducting such business, any establishments where such business as listed in Article 1 of the Control Law for Business Related to the Public Morals are practiced.
- 5) Inducing children under 15 years of age to engage in occupation which require them to wait at banquets or dinners where liquor is served;
- 6) Inducing children to practice obscene acts;
- 7) Acts transferring custody of a child to a person who is liable to practice any of the acts described in the preceding items, or who is liable to violate any of the penal laws and regulations concerning children, knowing such fact, or acts transferring custody of such a child to any other person, knowing that the child will be handed over to others for such purposes;

8) Offering services for the upbringing of children for the purpose of profit to be gained of such action by persons other than legally authorised employment agencies for both adult and children;

9) Keeping a child under one's control for purposes harmful to the child both in mind and body, except in cases where the child is within the relative in the fourth degree, or in cases where the control over a child is based on legal employment relations or has been authorized by a family court, the governor of prefecture or the superintendent of a Child Guidance Center.

2. Children placed in home for dependant, neglected and abused children, a home for mentally retarded children, a mentally retarded children's day- care center, a home for blind, deaf and dumb children, a home for physically weak children, a hospital home for crippled children and a home for training and education of juvenile delinquents shall not be exploited contrary to the stipulations of Articles 41 to 44.'

## **IV. Child prostitution**

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### **Article 2 - Definitions**

For the purpose of the Law, 'child prostitution' means the act of performing sexual intercourse, etc. (i.e. sexual intercourse an act similar to sexual intercourse, or an act for the purpose of satisfying one's sexual curiosity, of touching genital organs, etc. (i.e. genital organs, anus and nipples; the same shall apply hereinafter) of a child or of making a child touch one's genital organs, etc.; the same shall apply hereinafter) with a child in return for giving, or promising to give, a remuneration to any of the persons listed below:

- i. the child;
- ii. the person who acts as an intermediary in sexual intercourse, etc. with the child;
- iii. the protector of the child (i.e. a person who exercises parental power over the child or who is the guardian or suchlike and who is taking actual care of the child; the same shall apply hereinafter) or a person who has placed the child under his or her supervision.

### **Article 4 - Child Prostitution**

A person who commits child prostitution shall be punished with imprisonment with labor for not more than three years or a fine of not more than one million yen.

### **Article 5 - Inter-mediation of Child Prostitution**

1. A person who acts as an intermediary in child prostitution shall be punished with imprisonment with labor for not more than three years or a fine not exceeding three million yen.

2. A person who, as his or her business, acts as an intermediary in child prostitution shall be punished with imprisonment with labor for not more than five years and a fine not exceeding five million yen.

#### **Article 6 - Solicitation - Solicitation of Child Prostitution**

1. A person who solicits another person to commit child prostitution for the purpose of inter-mediating in child prostitution shall be punished with imprisonment with labor for not more than three years or a fine not exceeding three million yen.

2. A person who, as his or her business, solicits another person to commit child prostitution for the purpose mentioned in the preceding paragraph shall be punished with imprisonment with labor for not more than five years and a fine not exceeding five million yen.

#### **Article 8 - Trade, etc. in Children for the Purpose of Child Prostitution, and Suchlike**

1. A person who buys or sells a child for the purpose of making the child be a party to sexual intercourse, etc. in child prostitution, or for the purpose of producing child pornography by depicting any of the poses provided for in items (i) to (iii) of paragraph 3 of Article 2 shall be punished with imprisonment with labor for not less than one year and not more than ten years.

2. A Japanese national who, for any of the purposes mentioned in the preceding paragraph, transports a child, who has been abducted, kidnapped, sold or bought in a foreign country, out of that country shall be punished with imprisonment with labor for a limited term of not less than two years.

3. Attempts of the crimes mentioned in the two preceding paragraphs shall be punished.

## **V. Child pornography**

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#### **Article 2 - Definitions**

For the purpose of this Law, 'child pornography' means photos, videotapes and other visual materials which:

i. depict, in a way that can be recognized visually, such a pose of a child relating to sexual intercourse or an act similar to sexual intercourse with or by the child.

ii. depict, in a way that can be recognized visually, such a pose of a child relating to the act of touching genital organs, etc. of the child or of having the child touch someone else's genital organs, etc. in order to arouse or stimulate the viewer's sexual desire; or

iii. depict, in a way that can be recognized visually, such a pose of a child who is naked totally or partially in order to arouse or stimulate the viewer's sexual desire.

#### **Article 7 - Distribution, etc. of Child pornography**

1. A person who distributes, sells, lends as a business, or displays in public, child pornography shall be punished with imprisonment with labor for not more than three years or a fine not exceeding three million yen.

2. A person who produces, possesses, transports, imports to or exports from Japan child pornography for the purpose of conducting any of the acts mentioned in the preceding paragraph shall be punished with the same penalty as is described in the said paragraph.

3. A Japanese national who imports to or exports from a foreign country child pornography for the purpose of conducting any of the acts mentioned in paragraph 1 of this article shall be punished with the same penalty as is described in the said paragraph.

#### **Article 9 - Awareness of the Age of the Child**

No one who uses a child shall be exempt from the punishments specified in Articles 5 to 8 on the grounds of not having been aware of the age of the child excepting cases where there is no negligence.

#### **Article 10 - Crimes Committed by Japanese Nationals Outside Japan**

The crimes specified in Articles 4 to 6, paragraphs 1 and 2 of Article 7, and paragraphs 1 and 3 (limited to the part thereof which relates to paragraph 1) of Article 8 shall be dealt with according to the provision of Article 3 of the Penal Code (Law No. 45 of 1907).

#### **Article 14 - Education, Enlightenment, Research and Study**

1. In light of the fact that such acts as child prostitution and the distribution of child pornography would seriously affect the mental and/or physical growth of children, the State and local public entities shall, to allow for the prevention of such acts, endeavor to educate and enlighten the public to deepen their understanding of the rights of children.

2. The State and local public entities shall endeavor to promote researches and studies that can help prevent such acts as child prostitution and the distribution of child pornography.

#### **Article 15 - Protection of Children Who Have Suffered Mental or Physical Damage**

1. With regard to children who have suffered mental and/or physical damage as a result of having been a party to child prostitution or having been depicted in child pornography, the relevant administrative agencies shall, in cooperation with one another, taking into account the mental and physical conditions of the children as

well as the environment in which they have been placed, properly take necessary measures for their protection so that they can recover physically and mentally from the damage they have suffered and grow with dignity. Such measures include consultation, instruction, temporary guardianship and placement in an institution

2. The relevant administrative agencies shall, in the case of taking the measures mentioned in the preceding paragraph, provide the protector of the child with consultation, instruction or other steps if such steps are deemed necessary for the protection of the child mentioned in the said paragraph.

### **Article 16 - Improvement of Systems for the Protection of Who Have Suffered Mental or Physical Damage**

In order to be able to properly provide protection based on professional knowledge with regards to children who have suffered mental and/or physical damage as a result of having been a party to child prostitution or having been depicted in child pornography, the State and local public entities shall endeavor to promote researches and studies on the protection of such children, improve the qualities of persons who undertake the protection of such children, reinforce systems of cooperation and liaison among relevant agencies in case of the urgent need of protection of such children, arrange systems of cooperation and liaison with private organizations which undertake the protection of such children, and arrange other necessary systems.

## **VI. Internet**

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Committing sexual offences as above using the Internet shall be punished by respective laws.

As an example, we have cleared the case of distribution of child pornography using the internet, applying the law for punishing acts related to child prostitution and child pornography, and for protecting children.