

## **JAPAN**

### **The Maternal Health Protection Law (1996).**

#### **Chapter I. General Provisions**

##### **Object of this Law**

**Article 1.** The object of this Law is to protect the life and health of the mother.

##### **Definition**

**Article 2.** The term "sterilization operation" as used in this Law shall be defined to mean the surgical operation to be prescribed by the order which shall incapacitate a person for reproduction without removing the reproduction glands.

The term "artificial interruption of pregnancy" as used in this Law shall be defined to mean the artificial discharge of a fetus and its appendages from the mother during the period that a fetus is unable to keep its life outside the mother's body.

#### **Chapter II. Sterilization**

**Article 3.** The physician may exercise the sterilization operation, at his discretion, on a person who falls under any of the following items, with the consent of the person in question and the spouse (including a person who, though not registered, is actually under marital status; the same hereinafter). Minors shall be exceptions.

- (1) If the life of the mother is endangered by conception or childbirth;
- (2) If the mother has several children and her health condition seems to be seriously affected by each occasion of childbirth.

In the cases mentioned in the preceding paragraph, the sterilization operation under the same paragraph may be performed upon the spouse as well.

With respect to the consent mentioned in paragraph 1, the sole consent of the person in question shall suffice, if the spouse is unknown or cannot express his or her intention.

#### **Chapter III. Protection of the Mother's Life and Health**

##### **Artificial interruption of pregnancy at physician's discretion**

**Article 14.** The physician designated by the Medical Association, which is a corporate juridical body established in the prefectural district as a unit (hereinafter called the "designated physician"), may exercise artificial interruption of pregnancy, at his discretion, on the person who falls under any of the following items, with the consent of the person in question and the spouse.

- (1) A mother whose health may be affected seriously by continuation of pregnancy or childbirth from the physical or economic viewpoint;
- (2) A person who has conceived by being fornicated by violence or threat or while incapacitated to resist or refuse.

With reference to the consent under the preceding paragraph, the sole consent of the person in question shall suffice if the spouse is unascertainable, or if the spouse fails to declare his intention, or if no spouse remains after conception.

### **Practical guidance for contraception**

**Article 15.** Practical guidance for contraception by means of contraceptive instruments designated by the Minister of Health and Welfare for the use of women shall not be given as vocation by a person other than a physician, unless he is designated by the governor of prefecture.

However, the act of inserting a contraceptive instrument in the cavity of the uterus shall not be performed by any person other than a physician.

The person who may gain designation of the governor of prefecture under the preceding paragraph shall be a midwife, a public health nurse, or a nurse who has completed the course sanctioned by the prefectural governor in accordance with the standards prescribed by the Minister of Health and Welfare.

In addition to matters provided for in the preceding two paragraphs, necessary matters in connection with the designation or sanction by the prefectural governor, shall be prescribed by the Cabinet Order.

## **Chapter VI. Notification, Prohibition and Others**

### **Notification**

**Article 25.** The physician or the designated physician who has carried out a sterilization operation or artificial interruption of pregnancy in accordance with the provisions of Article 3, paragraph 1, or Article 14, paragraph 1, shall send to the governor of the prefecture the duly arranged records of such operations for the month accompanied by statements of reason by the 10th day of the following month.

### **Notice**

**Article 26.** In cases where a person who has undergone a sterilization operation, intends to get married, shall notify the partner to that effect.

### **Secrecy of operation**

**Article 27.** Any person who has engaged in the sterilization operation or artificial interruption of pregnancy shall not break any secrets that he has learned in the performance of his duties. The same shall also apply in cases where he has retired from his office.

### **Prohibition**

**Article 28.** The operation or the Röntgen ray radiation in order to incapacitate a person for reproduction shall not be conducted without appropriate reasons, except in the cases falling under the provisions of this Law.

## **Chapter VII. Penal Provisions**

### **Contravention of Article 15, paragraph 1**

**Article 29.** A person who has contravened the provision of Article 15, paragraph 1, shall be punished with a fine not exceeding five hundred thousand yen.

### **Contravention of Article 25**

**Article 32.** A person who, in contravention of the provision of Article 25, has failed to present a report to the competent authorities or has made a false report, shall be punished with a fine of not more than one hundred thousand yen.

### **Contravention of Article 27**

**Article 33.** A person who, in contravention of the provision of Article 27, has failed to keep another's secrets without appropriate reasons, shall be punished with penal servitude for not more than six months or a fine of not more than three hundred thousand yen.

### **Contravention of Article 28**

**Article 34.** A person who, in contravention of the provision of Article 28, has exercised a eugenic operation, shall be punished with penal servitude for not more than one year or a fine of not more than five hundred thousand yen. If the person has thereby caused death to another, he shall be liable to penal servitude for not more than three years.

### **The effective date**

**Article 35.** The Law shall come into force as from the date when the period of 60 days shall have elapsed counting from the date of its promulgation.

### **Abrogation of relevant Law**

**Article 36.** The National Eugenic Law (Law No. 107 of 1940) shall be abrogated.

### **Continuance of force of penal provisions**

**Article 37.** With regard to application of penal provisions to the offence prior to the enforcement of this Law, the Law mentioned in the preceding Article shall remain in force even after the enforcement of this Law.

### **Exception to notification**

**Article 38.** The provision of Article 25 shall not apply in its scope to the cases where a report has been made under the Ministry of Health and Welfare Ordinance No. 42 of 1946 (Regulations concerning notification of stillbirth).

### **Medicines necessary for giving guidance for contraception**

**Article 39.** A person who has been designated by the governor of the prefecture under the provision of Article 15, paragraph 1, may sell to a person who shall receive practical guidance of same, solely such medicines as may be required for contraception and designated by the Minister of Health and Welfare, until not

later than the 31st of July, 2000, regardless of the provision of Article 24, paragraph 1 of the Pharmaceutical Affairs Law (Law No. 145 of 1960).

In case a person designated by the governor of prefecture under Article 15, paragraph 1 comes under one of the following items, the same governor may cancel such designation.

- (1) In case the provision of Article 43 of the Pharmaceutical Affairs Law apply to the medicines designated by the Minister of Health and Welfare under the provision of the preceding paragraph, the same medicines which have failed to stand a test under the same Article have been sold.
- (2) Medicines other than those designated by the Minister of Health and Welfare have been sold on business;
- (3) In addition to the cases under the preceding items, medicines have been sold on business to a person other than those given practical guidance for contraception.

The action provided for in the preceding paragraph shall notify the person subject to such action at least one week on advance of the date set for the hearing.

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## **Penal Code 1907**

(Act No. 45 of April 24, 1907)

### **Chapter XXIX. Crimes of Abortion (Abortion)**

**Article 212.** When a pregnant woman causes her own abortion by drugs or any other means, imprisonment with work for not more than 1 year shall be imposed.

#### **(Abortion with Consent; Causing Death or Injury)**

**Article 213.** A person who, at the request of a woman or with her consent, causes her abortion, shall be punished by imprisonment with work for not more than 2 years. If the person thereby causes the death or injury of the woman, the person shall be punished by imprisonment with work for not less than 3 months but not more than 5 years.

#### **(Abortion through Professional Conduct; Causing Death or Injury)**

**Article 214.** When a physician, midwife, pharmacist or pharmaceuticals distributor, at the request of a woman or with her consent, causes her abortion, imprisonment with work for not less than 3 months but not more than 5 years shall be imposed. If such person thereby causes the death or injury of the woman, imprisonment with work for not less than 6 months but not more than 7 years shall be imposed.

#### **(Abortion without Consent)**

**Article 215.** (1) A person who, without the request of the woman or her consent,

causes her abortion shall be punished by imprisonment with work for not less than 6 months but not more than 7 years.

(2) An attempt of the crime prescribed under the preceding paragraph shall be punished.

**(Abortion without Consent Causing Death or Injury)**

**Article 216.** A person who commits the crime prescribed under the preceding Article and thereby causes the death or injury of the woman shall be dealt with by the punishment prescribed for either the crimes of injury or the preceding Article, whichever is greater.

**Chapter XXX Crimes of Abandonment**

**(Abandonment)**

Article 217. A person who abandons another who, by reason of senility, immaturity, physical handicap or disease, is in need of support shall be punished by imprisonment with work for not more than 1 year.

**(Abandonment by a Person Responsible for Protection)**

**Article 218.** When a person who is responsible for protection of a senile, immature, physically disabled or sick person, abandons, or fails to give necessary protection to such person, the person shall be punished by imprisonment with work for not less than 3 months but not more than 5 years.

**(Abandonment Causing Death or Injury)**

**Article 219.** A person who commits a crime prescribed under the preceding two Articles and thereby causes the death or injury of another, shall be dealt with by the punishment prescribed for either the crimes of injury or the preceding Articles, whichever is greater.

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