

Chapter 3 Background and Recent Trends in Promotion of Measures

Section 1 Background to Promotion of Measures

1 Main Pieces of Legislation Concerning Persons with Disabilities before Enactment of Basic Act

Measures for persons with disabilities in Japan after World War II are said to have started with the enactment of the Child Welfare Act, which prescribed basic measures for child welfare including measures for children with disabilities in 1947 in order to help the many children injured by the War.

In addition, the School Education Act was enacted in the same year, leading to the beginning of a new school education system, including education for students with disabilities.

Next, the Act for the Welfare of Persons with Physical Disabilities was enacted in 1949. At that time, the purpose of this Act was to improve the welfare of persons with physical disabilities by contributing to the stability of their lives through the national government's and local governments' assistance for persons with physical disabilities and provision of necessary protection and by prescribing the duty of the people to cooperate in these matters on the assumption that persons with physical disabilities would rehabilitate themselves through their own endeavors.

Also, in 1950, the Mental Health Act, which was intended to enhance medical services, protection, promotion of social rehabilitation and the like for persons with mental disabilities, was enacted.

Furthermore, in 1960, the Act on Welfare of Mentally Retarded Persons (currently referred to as the Act for the Welfare of Persons with Intellectual Disabilities), which was intended to develop assistance projects concerned with intellectual disabilities that consistently serve persons ranging from children through adults, and the Act for Employment Promotion of Persons with Physical Disabilities, which was intended to promote the employment of persons with physical disabilities and help them achieve employment security, was enacted.

Although step-by-step progress including the enactment of these Acts had been made, measures were advanced within the discrete frameworks of physical disabilities, intellectual disabilities, and mental disabilities (the so-called three disabilities) and measures tended to be advanced mainly in the field of welfare, in separate administrative fields including welfare, employment, education and medical services.

(1) Enactment of Basic Act

Under such circumstances, the needs for the establishment of a basic act to promote comprehensive measures for persons with physical and intellectual disabilities was growing among persons with disabilities and persons concerned with disabilities from each field who supported persons with disabilities. In 1970, the “Basic Act for Countermeasures Concerning Mentally and Physically Disabled Persons” was enacted through legislation at the instance of cross-party group of House member.

Although the main focus of this Act was persons with intellectual and physical disabilities, this Act was literally enacted as a basic act that forms the basis for all the individual laws relevant to persons with disabilities that each ministry and agency holds jurisdiction over. As a basic act relating to measures for persons with disabilities and it can be said that the enactment of this Act legally put the basic idea of comprehensive promotion of measures for persons with disabilities in Japan on a firm basis for the first time. In 1993, the Act was renamed the “Basic Act for Persons with Disabilities,” and on this occasion, it was clearly prescribed that persons with mental disabilities should be

included within the scope of the category of persons with disabilities defined by this Act. Also, it was clearly prescribed that persons with developmental disabilities should be included in the scope of the category of “persons with disabilities,” and the interpretation of this term clarified that persons with disabilities caused by intractable/rare diseases are included within the scope of the term, following the revision of the Act in 2011.

(2) From International Year of Disabled Persons to Formulation of First Long-term Program (FY1982 – FY1992)

The United Nations (hereinafter referred to as “UN”) has made repeated decisions including resolutions concerning the promotion of measures for persons with disabilities since about the 1970s, which had an international impact, and in 1976, designated the year 1981, five years after 1976, as the International Year of Disabled Persons, requesting efforts from each state. Following this, in Japan, “About the Promotion System for the International Year of Disabled Persons,” which prescribes the establishment of the “Headquarters for the Promotion of the International Year of Disabled Persons” in the Prime Minister’s Office, was endorsed by the Cabinet. Then in 1981, the International Year of Disabled Persons, the government further advanced the comprehensive promotion of measures for persons with disabilities including holding events and conducting projects.

The International Year of Disabled Persons focused on the promotion of the understanding of persons with disabilities and, at the same time, it served as an opportunity for associations of persons with disabilities and associations relevant to persons with disabilities, which had conducted their activities largely divided according to the types of disabilities, to work together on projects to promote the International Year of Disabled Persons.

Because it was globally necessary to continue to work on issues relating to persons with disabilities, in December 1982, which was in the year following the International Year of Disabled Persons, it designated the years from 1983 to 1992 as the “United Nations Decade of Disabled Persons,” and the “World Programme of Action Concerning Disabled Persons” was formulated. Responding to these trends, the Headquarters for the Promotion of the International Year of Disabled Persons formulated the first full-scale and long-term program in Japan in March 1981 and decided to advance efforts for measures for persons with disabilities.

In April of the same year, the Headquarters for the Promotion of the International Year of Disabled Persons was reorganized, and instead the “Headquarters for the Promotion of Countermeasures for Persons with Disabilities” (hereinafter referred to as “Task Force for Measures”; the name was changed to Headquarters for the Promotion of Measures for Persons with Disabilities in 1996) was established in order to comprehensively and effectively promote measures for persons with disabilities.

In 1987, the middle year of the “United Nations Decade of Disabled Persons,” the Task Force for Measures formulated the “Priority Measures for the Latter Phase” and established a more specific program that was to be conducted selectively during the second half of the long-term program.

This formulation led to the establishment of a five-year program for priority measures under a later long-term program and the custom of establishing five-year programs carried over to the Basic Program for Persons with Disabilities (Second). These programs were based on the proposals of organizations including “Central Council for Countermeasures for Persons with Disabilities” (later the name was changed to “Central Council for the Promotion of Measures for Persons with Disabilities.” The Council was once abolished in 1999, but was re-established by the Prime Minister’s Office in 2004;

hereinafter referred to as “Council”), which the government had established and was composed of persons including academic experts.

(3) Formulation of New Long-term Program (FY1993 – FY2002) and Revision of Basic Act in 1993

Associations of persons with disabilities expressed the opinion that after the end of the “United Nations Decade of Disabled Persons,” a new “Domestic Action Program” must be formulated, and the resolution for the “Asian and Pacific Decade of Persons with Disabilities” (1993 - 2002), for which Japan had also been a co-sponsor, was adopted; responding to these and other trends, the Council discussed the ideal long-term measures for persons with disabilities based on the results of past efforts, and provided their opinions on the measures. For this, the Task Force for Measures formulated the “New Long-term Program Relating to Measures for Persons with Disabilities,” (hereinafter referred to as the “New Long-term Program”) which looked ahead to the following 10 years starting from 1993, in order to further promote measures for persons with disabilities.

On the other hand, the Basic Act for Countermeasures Concerning Mentally and Physically Disabled Persons was renamed to the “Basic Act for Persons with Disabilities” according to the development of the society. The Basic Act was revised by unanimous accord of the National Diet on November 26, 1993. The major points of revision were as follows:

1) this Act prescribes that the objective of this Act is to promote the independence of persons with disabilities and their participation in activities in society, culture, the economy and other fields and aim for the “full participation and equality” of persons with disabilities, 2) this Act prescribed that the disabilities within the scope of this Act are physical disabilities and what are currently referred to as intellectual disabilities or mental disabilities, 3) this Act prescribed that the basic idea of this Act is that persons with disabilities should be given opportunities to participate in activities in society, the economy, culture and other fields as constituent members of society, 4) this Act designated December 9 as the “Day of Persons with Disabilities” in order to deepen interest in and understanding of the welfare of persons with disabilities widely among the people, 5) this Act prescribed that the national government should formulate basic programs for persons with disabilities in order to promote measures relating to the welfare of persons with disabilities comprehensively and systematically, and also that the local governments should make endeavors to formulate programs conforming to the programs that the national government shall formulate, 6) this Act developed provisions for the responsibilities of the national government and local governments in the fields of utilization of public facilities, information and the like, including promotion of employment, and prescribed that the obligation to make endeavors in these fields should be imposed on business owners and 7) the “Council for Countermeasures for Persons with Mental and Physical Disabilities,” which investigates and discusses the establishment of basic and comprehensive measures relating to persons with disabilities, was renamed the “Council for the Promotion of Measures for Persons with Disabilities.”

This Act prescribed that committee members or expert committee members should also be appointed from among persons with disabilities or persons engaged in business relating to the welfare of persons with disabilities.

■ Figure 12 Trends in Measures for Persons with Disabilities

Source: Cabinet Office

In 2002, as the final year of the “New Long-term Program,” a deliberation team for each ministry and agency as well as the “Round-table Conference on the New Basic Program for Persons with Disabilities” attended by persons with disabilities, persons concerned with the welfare of persons with disabilities and academic experts discussed about the program. Then the “Basic Program for Persons with Disabilities” (hereinafter referred to as the “Second Program”) was endorsed by the Cabinet in December of the same year, and the Task Force for Measures announced the “Five-year Program for the Implementation of Priority Measures.”

support one another, the human rights of persons with disabilities are respected as equal members of society. At the same time, persons with disabilities participate in society through their own choice and self-determination and share responsibilities as members of society. On the other hand, in order to make the social participation and involvement of persons with disabilities meaningful, it is necessary to remove the causes that limit their activities and restrict their social participation and to support them so that they can fulfill themselves to the maximum possibility. It is not until all members of society, not only the administration but also entities including enterprises and NPOs share their values with each other, become aware of their individual roles and responsibilities and voluntarily and proactively work on to realize a cohesive society where all citizens can equally participate and be involved. It is important to encourage individual citizens to understand and cooperate in the realization of such a society and in steadily putting it into practice as a whole society.

In light of the views mentioned above, the basic direction was determined using four cross-sectional viewpoints, and four tasks to work on were formulated. The “cross-sectional viewpoints” are 1) the promotion of a barrier-free society, 2) user-oriented support, 3) development of measures based on the characteristics of one’s disabilities, and 4) comprehensive and effective promotion of measures. The “tasks to work on” are 1) the enhancement of the power to act and participate, 2) development of a foundation for action and participation, 3) comprehensive efforts for measures for persons with mental disabilities and 4) reinforcement of intraregional cooperation in the Asia-Pacific region.

The Task Force for Measures set more detailed numerical targets as “5 Years for the Implementation of Priority Measures,” and promoted the Second Program. The Cabinet Office has verified more than 580 measures of the status of the implementation of each category by field and made this public on its website.

b. Revision of Basic Act in 2004

In order to make the social participation and involvement of persons with disabilities meaningful, 11 years had passed since the last revision of the Basic Act in 1993, it is necessary to remove certain obstacles that were limiting the activities of persons with disabilities and restricting their social participation and to support persons with disabilities so that they could develop one’s ability and self-fulfillment. The Basic Act was revised in 2004 for the purpose of responding to the changes in the socioeconomic circumstances surrounding persons with disabilities and further promoting the independence and social participation of persons with disabilities.

The main points of this revision were as follows: 1) prohibition of discrimination on the grounds of disability as the basic concept, 2) extension of the “Day of Persons with Disabilities” (December 9) to the “Week of Persons with Disabilities” (December 3 - 9), 3) imposing the obligation to formulate programs for persons with disabilities on the prefectural governments and municipalities, 4) as basic measures relating to the welfare of persons with disabilities, supplement provisions including measures to promote mutual understanding in education, grants for places where persons with disabilities can engage in work activities in each region, 5) as basic measures relating to the disability

prevention, supplement provisions to promote investigations and research on intractable/rare diseases, 6) establishing the “Central Council for the Promotion of Measures for Persons with Disabilities” in the Cabinet Office, which provides its opinions to the Prime Minister on the government’s formulation of the Basic Program for Persons with Disabilities, and 7) other matters.

(5) Main Acts Enacted until Revision of Basic Act in 2011 in the Second Program

The Acts relating to persons with disabilities which were enacted prior to the revision of the Basic Act in 2011 are as follows:

a. “Act on Support for Persons with Developmental Disorders”

In the past, within the three frameworks of physical disabilities, intellectual disabilities, and mental disabilities, it had been difficult to support persons with developmental disorders. For persons with developmental disorders, the “Act on Support for Persons with Developmental Disorders,” which was enacted in 2006 provided the definition of developmental disorder and promotes integrated support across fields including health, medical services, welfare, education and employment.

b. “Services and Supports for Persons with Disabilities Act”

In the field of living support, the “Services and Supports for Persons with Disabilities Act” became effective in 2006 to strengthen job assistance and support deinstitutionalization, and strengthen the welfare service provision systems including restructuring welfare service have been conducted so that persons with disabilities can live with ease in their communities.

After this Act came into force, countermeasures were repeatedly taken for the purpose of buffering against the drastic changes in order to lighten the expenses for users and strengthen the foundations of businesses sectors, to have the Act take a firm hold.

c. “Barrier-free Act”

In the field of living environments, the “Act on Promotion of Smooth Transportation, etc. of Elderly Persons, Disabled Persons” (Barrier-free Act) was enacted in June 2006, and became effective in December of the same year. This act led the formulation of a basic plan through the participation of parties concerned with disabilities, and the promotion of comprehensive barrier-free of daily life environment, including not only public transportation, roads and buildings but also urban parks and off-street car park.

d. Partial Revision of the School Education Act

In the field of education and fostering, the “Act on the Partial Revision of the School Education Act” was enacted in June 2006 and became effective in April 2007. This Act prescribes that in order to flexibly respond to the needs of individual children with disabilities and to appropriately instruct and support them, previous systems of schools for the blind, schools for the deaf and schools for children with disabilities should be converted into a new system of schools for special needs education.

Also, the “Basic Act on Education” was revised and enforced in December 2006. In the provisions relating to “equal opportunity in education,” it was newly and clearly specified that the national government and local governments should take necessary measures so that young students with disabilities can receive adequate education

depending on the degree of their disabilities.

Moreover, the “Basic Plan for the Promotion of Education,” which set forth an educational vision that should be pursued over the following ten years and measures to be implemented comprehensively and systematically over five years, from FY2008 through FY2012, to realize the idea of this revised Basic Act on Education, was endorsed by the Cabinet in July 2008, and the Second Plan succeeded to this Plan since June 2013.

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

In the field of employment, although there existed the “Act on Employment Promotion of Persons with Disabilities,” the needs for vocational support of persons with disabilities have been growing more as they participate in society. It has become necessary to expanding work opportunities to encourage the independence of persons with disabilities. Therefore, the “Act on the Partial Revision of the Act on Employment Promotion of Persons with Disabilities” was enacted in December 2009, which prescribed further promotion of employment for persons with disabilities in small- and medium-sized enterprises and reconsideration of the employment system for part-time work, and became gradually effective since April 2009.

(6) Adoption of Convention on the Rights of Persons with Disabilities at United Nations General Assembly

At the UN, the “Convention on the Rights of Persons with Disabilities,” an overarching and comprehensive international convention to protect and promote the rights and dignity of persons with disabilities, was adopted in December 2006 at a plenary meeting of the 61st UN General Assembly after deliberations on the drafting of the Convention in eight meetings for negotiations since July 2002 and came into force in May 2008. Japan signed the Convention in September 2007, ratified the Convention in January 2014, and the Convention came in to effect for Japan in February 2014 (See Chapter 4.2 for details).