

Stonewall

ABOUT THIS RESOURCE

This resource is produced by Stonewall, a UK-based charity that stands for the freedom, equity and potential of all lesbian, gay, bi, trans, queer, questioning and ace (LGBTQ+) people.

At Stonewall, we imagine a world where LGBTQ+ people everywhere can live our lives to the full.

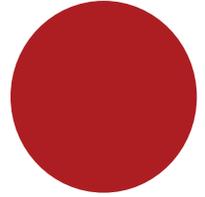
Founded in London in 1989, we now work in each nation of the UK and have established partnerships across the globe. Over the last three decades, we have created transformative change in the lives of LGBTQ+ people in the UK, helping win equal rights around marriage, having children and inclusive education.

Our campaigns drive positive change for our communities, and our sustained change and empowerment programmes ensure that LGBTQ+ people can thrive throughout our lives. We make sure that the world hears and learns from our communities, and our work is grounded in evidence and expertise.

To find out more about our work, visit us at www.stonewall.org.uk

Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)

Stonewall is proud to provide information, support and guidance on LGBTQ+ inclusion; working towards a world where we're all free to be. This does not constitute legal advice, and is not intended to be a substitute for legal counsel on any subject matter.



JAPAN



Population: 126+ million



Stonewall Global Diversity Champions: 59

THE LEGAL LANDSCAPE

In Stonewall's **Global Workplace Equality Index**, broad legal zoning is used to group the differing challenges faced by organisations across their global operations.

Japan is classified as a Zone 2 country, which means sexual acts between people of the same sex are legal but no clear national employment protections exist.

Two further zones exist. In Zone 1 countries, sexual acts between people of the same sex are legal and clear national employment protections exist on grounds of sexual orientation. In Zone 3 countries, sexual acts between people of the same sex are illegal.

FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

Article 21(1) of the Constitution of Japan (1946) protects the **rights to freedom of expression, association and assembly** of all citizens.

These rights are **not specifically reaffirmed or restricted for LGBT** people or issues.

FAMILY AND RELATIONSHIPS

Sexual acts between people of the same sex are not criminalised and are thus **legal**.

There is an **equal age of consent** for sexual acts regardless of gender.

Article 24(1) of the Constitution defines **marriage** as between "both sexes", which has consistently been interpreted to **exclude same-sex couples**.

Trans people can legally marry a person of the opposite sex after their gender is legally changed.

In six municipalities, same-sex couples can apply for a certificate to recognise their partnership. The certificates are mostly symbolic without triggering any major legal consequences.

Same-sex couples have no legal rights to jointly adopt children.

EQUALITY AND EMPLOYMENT

Employment discrimination against LGBT people is **not legally prohibited**.

Article 5 of the Act on Securing of Equal Opportunity and Treatment between Men and Women in Employment (enacted in 1972, amended in 2006) requires employers to provide equal opportunities for all persons regardless of sex, but there is no reference to sexual orientation or gender identity.

In 2017, the Ministry of Health, Labour and Welfare amended the Sexual Harassment Guidelines. They now state that **sexual harassment** can occur **irrespective of sexual orientation or gender identity** and that sexual harassment **can occur between people of the same sex**. These guidelines legally bind employers.

Article 14 of the Constitution states that 'all of the **people** are **equal under the law**'.

GENDER IDENTITY

The Act on Special Cases in Handling Gender for People with Gender Identity Disorder (enacted in 2003, amended in 2011) allows for **legal gender change** to 'female' or 'male' **subject to certain requirements**. These **include sex-reassignment surgery and sterilisation**. The person must also be not less than 20 years of age and cannot be married or have a minor child.

If a person obtains a "**gender reassignment**" **ruling** from the Family Court, it **allows for** a subsequent **change of** the person's **identification documents**. However, a **birth certificate cannot be amended**.

To change a person's **name, 'justifiable grounds'** and the **permission of the Family Court** are **required** under Article 107-2 of the Family Register Act (enacted in 1947, amended in 2007).

IMMIGRATION

There are **no provisions** in the Immigration Control and Refugee Recognition Act (enacted in 1951, amended in 2014) that **support immigration of same-sex spouses** or partners.

Foreign same-sex marriages are **not recognized** in Japan.

Japanese citizens **cannot sponsor** their **non-Japanese same-sex spouse** for visa or immigration purposes.

In 2013, the Ministry of Justice issued a notice to immigration officers to **take into consideration if couples** are legally **married in a foreign jurisdiction**.

It is **unclear if** such notice **applies only to non-Japanese** same-sex couples.

It is **uncertain that a visa will be issued** to a same-sex spouse upon issuing a work visa to a spouse.



A VIEW FROM JAPAN

Soshi Matsuoka is a commentator, lobbyist and writer on LGBT topics. He appears regularly on TV and in print and maintains his own blog. Soshi also works with schools and companies to raise awareness of LGBT issues and carries out training and education activities.

What are the biggest barriers to LGBT equality in Japanese society?

LGBT topics are not often talked about, and many people in Japan lack an understanding of what the terms lesbian, gay, bi and trans mean. LGBT people also get little or inaccurate representation in the media. The lack of understanding is one of the reasons why few Japanese LGBT people feel able to be open about their sexual orientation and gender identity, especially to their families. Other barriers include a strong emphasis on traditional Japanese family values, and the fear of not being accepted and becoming the topic of unwanted conversation.

But we have also seen positive developments. Recently, there has been a slight increase in LGBT representation in the media. Also, while there has been little concrete progress or political discussion on the introduction of a national LGBT anti-discrimination law, there has been progress on a more local level. In the run up to the 2020 Olympics, the Mayor of Tokyo has indicated a willingness to introduce a local law. Five administrative areas, covering approximately two per cent of the Japanese population, have joined Tokyo's Shibuya district in introducing same-sex partnership recognition in the absence of progress towards national legislation.

What are some specific problems that affect trans people?

Being trans is legally regarded as a 'disorder' in Japan. Consequently, trans people are generally tolerated by society at large, as having a 'disorder' is seen as something which cannot be helped. However, this does not mean that they are accepted or that being trans is celebrated as an aspect of diversity. Also, trans women are often misrepresented as drag queens by the media and are therefore less tolerated than trans men.

Trans people in general face discrimination in education and employment. This is especially the case where trans people do not fulfil the many strict requirements for a legal gender change and cannot have their name and gender changed on identification documents. In 2017, it was decided that sexual reassignment surgery would become available through Japan's national medical insurance. However, the fact that this is a requirement for changing one's legal gender in Japan remains a concern.

What is the workplace like for LGBT people?

There is a significant difference between the workplace experiences of LGBT staff in international corporations and those in Japanese organisations. Many Japanese companies have only just started engaging with diversity and inclusion topics and are mostly looking at gender issues.

Not many LGBT employees are open about their sexual orientation and gender identity in such companies. The working environment is sometimes different in global corporations that put an emphasis on diversity and inclusion, including sexual orientation and gender identity. Having LGBT-inclusive policies and diversity training in place more universally would help LGBT employees be accepted in the workplace. In fact, a few companies have begun to recognise the same-sex partners of their employees, and others have begun to offer services and products tailored to same-sex couples.

Recently, both the Japanese Trade Union Confederation and the Japan Business Federation (Keidanren) have undertaken independent surveys on LGBT awareness in Japanese companies and developed models for inclusion that companies can follow.

What can employers do to support their LGBT employees and the LGBT movement in Japan?

Corporations at the start of their journey should actively learn what LGBT means in the first place and which issues affect LGBT employees in Japan. They can then start putting in place systems that enhance workplace equality. Again, education of the workforce is crucial, and can be achieved most effectively by employers working with NGOs to deliver this training. Foreign corporations should continue to develop sophisticated LGBT equality systems that Japanese corporations have to compete with.

Having recognised the role corporations can play, some also sponsor and participate in Pride parades. Since 2016, the annual Work with Pride Index has been created to award recognition to companies which have made positive steps towards inclusion – an increasing number of companies are being recognised. Nonetheless, there is currently a lack of openly LGBT business leaders and corporate role models.



LGBT INCLUSION IN THE WORKPLACE

THE FOUNDATIONS

There are several steps employers can take to start creating a supportive workplace environment for their LGBT employees in Japan:

- ✓ **Consult local LGBT organisations to understand the local context for LGBT people**
- ✓ **Introduce explicitly LGBT-inclusive anti-discrimination and bullying and harassment policies**
- ✓ **Train HR staff and promote inclusive policies**
- ✓ **Carry out LGBT-inclusive diversity training**
- ✓ **Encourage senior managers to promote their commitment to LGBT inclusion and equality**

NEXT STEPS

Once a foundation has been built, there are further steps employers can take to bring about positive change for LGBT people. For example:

- ✓ **Audit and extend equal benefits to LGBT partners**
- ✓ **Establish employee engagement mechanisms like LGBT networks and allies programmes**
- ✓ **Carry out LGBT awareness-raising events**
- ✓ **Partner with local LGBT groups to advance LGBT equality beyond the workplace**
- ✓ **Work with suppliers and partners to advance LGBT workplace equality**

Employers can improve their initiatives by participating in Stonewall's Global Workplace Equality Index - a free benchmarking tool offering a clear roadmap to LGBT inclusion in the workplace. www.stonewall.org.uk/gwei



LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

Freshfields Bruckhaus Deringer

In April 2016, Freshfields Bruckhaus Deringer's (Freshfields) Tokyo office co-founded an LGBT Lawyers and Allies Network (LLAN). The main focus of the group is to promote LGBT equality in Japan, specifically with regard to same-sex marriage. As such, LLAN has been working closely with a group of Japanese lawyers who filed a petition to the Committee for Fundamental Human Rights of the Japan Federation of Bar Associations, arguing in favour of equal marriage. LLAN has conducted research into 10 jurisdictions that have adopted or are considering equal marriage. The results of the research are summarised in a report supporting the equal marriage petition before the Japanese Federation of Bar Associations. As a core member of LLAN, Freshfields has also been actively involved in various events aimed at enhancing the common understanding of LGBT issues and the importance of equal marriage. For example, Freshfields co-organised the Asian premiere of Freedom to Marry, a documentary about the decades-long path to equal marriage in the USA. In addition, members of Freshfields' Tokyo office give presentations to major Japanese and multinational companies, and educational institutions, on basic knowledge and legal arguments surrounding LGBT rights. In recognition of Freshfields Tokyo office's efforts, Freshfields received a Work with Pride Gold award in 2017, as part of an index to evaluate Japan's business community on their efforts to support inclusiveness for LGBT employees.

Goldman Sachs

In 2005, Goldman Sachs Japan established its LGBT network to promote an inclusive work environment for LGBT employees. With over 180 members, the network organises awareness-raising events and networking opportunities to drive change both internally and externally. A Managing Director (MD) allies strategy was also launched, motivating senior leaders to play influential and active roles in promoting LGBT-inclusive messaging. MD allies create a support network for LGBT employees at all levels of the firm and can further participate in a reverse-mentoring programme. In the programme, LGBT employees act as mentors to help MD allies better understand the nuances of the LGBT community in Japan. Goldman Sachs' training 'Out in the Open' is offered to all employees and is mandatory for senior staff. It covers a variety of topics including sexual orientation terminology and best practice to promote an inclusive environment for LGBT professionals. The firm also plays an active role engaging the Japanese community in LGBT equality. For example, in collaboration with the group Good Aging Yells, Goldman Sachs has arranged annual career mentoring and networking programmes for LGBT students. In addition, the firm regularly sponsors and participates in the Tokyo Rainbow Pride parade, with 2016 marking the 10th year of participation. Goldman Sachs is also an active member of the LGBT Finance Forum.



GET INVOLVED



THE ANNUAL LGBT CALENDAR

April / May – Tokyo Rainbow Pride. www.tokyorainbowpride.com

June – Rainbow Reel Tokyo (film festival). www.rainbowreeltokyo.com

Check the events websites for the most up-to-date information on dates.

September – Mie Rainbow Festa. www.mierainbowfesta.wixsite.com/elly



FIND LGBT GROUPS AND COMMUNITIES

Fruits in Suits Japan – a network for LGBTQ+ professionals with over 1500 members. www.fruitsinsuitsjapan.org

Good Aging Yells – a group working for a society within which LGBT people of all ages live free from discrimination. They organise community events and LGBT-friendly house sharing. www.goodagingyells.net

Japan Alliance for LGBT Legislation – a group lobbying for the advancement of LGBT equality through legislation. www.lgbtetc.jp

Lawyers for LGBT & Allies Network – a network for LGBT professionals and their allies in the legal sector, providing legal assistance to promote the understanding of LGBT people and issues. www.llanjapan.org

LGBT Youth JPN – a Tokyo-based student organisation exploring LGBT support systems employed in foreign countries through study trips. www.lgbtyouthjapan.jimdo.com

NIJIRO DIVERSITY – an organisation working with corporations and offering seminars to promote LGBT acceptance in Japan's workplaces. www.nijiroidiversity.jp

OCCUR – an LGBT group focusing on legal activism, HIV-related health provision and community engagement, as well as serving as a group for LGBT youth. www.occure.or.jp

ReBit – a group for LGBT people in their teens and twenties focusing on education, LGBT celebrations and job hunting support. www.rebitlgbt.org

Stonewall Japan – an English-speaking community group for LGBTQIA+ people, providing information and resources as well as a safe space for networking. www.stonewalljapan.org



GET LOCAL LGBT NEWS

NIJIRO NEWS – online LGBT news and resources. www.nijiironews.com



STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 59 ORGANISATIONS OPERATING IN JAPAN.

Our team of workplace advisors offers tailored one-to-one advice on how to create LGBT-inclusive workplaces globally. If you would like to receive support or want to be featured as a case study in one of our Global Workplace Briefings, contact Stonewall.

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Freshfields Bruckhaus Deringer

Every effort has been made to ensure that the information contained in this Global Workplace Briefing is correct as of July 2018. Introducing any new initiative requires careful consideration and the safety of staff should always be of paramount importance. This overview is for guidance purposes only and does not constitute, nor should it be interpreted as a substitute for, detailed legal advice. If you have any specific legal concerns, always consult with local legal experts. Stonewall Equality Ltd, Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)