

- Agency, Independent Administrative Agency (Act No. 180 of 2002)
11. Small and Medium-Sized Enterprise Cooperatives Act (Act No. 181 of 1949)
 12. Marine Transportation Act (Act No. 187 of 1949)
 13. Local Tax Act (Act No. 226 of 1950)
 14. Act on Compensation of Damages Related to Fishing Vessels (Act No. 28 of 1952)
 15. Warehousing Business Act (Act No. 121 of 1956)
 16. National Tax Collection Act (Act No. 147 of 1959)
 17. Act on Compensation for Nuclear Damage (Act No. 147 of 1961)
 18. Shopping District Promotion Association Act (Act No. 141 of 1962)
 19. Stamp Tax Act (Act No. 23 of 1967)
 20. Act on Limitation of Shipowner Liability (Act No. 94 of 1975)
 21. Act on Liability for Oil Pollution Damage (Act No. 95 of 1975)
 22. Forestry Cooperative Act (Act No. 36 of 1978)
 23. Civil Execution Act (Act No. 4 of 1979)
 24. Insurance Business Act (Act No. 105 of 1995)
 25. Act on Special Provisions, etc. of the Civil Code Concerning the Perfection Requirements for the Assignment of Movables and Claims (Act No. 104 of 1998)
 26. Norinchukin Bank Act (Act No. 93 of 2001)
 27. Supplementary Provisions of the Act on Revision of Related Acts in Line with Enforcement of the Act for Partial Revision of the Civil Code (Act No. 45 of 2017)

5. Labor/Social Security Law

An act on the development of laws for promotion of work style reform

Law No. 71, Jun 29, 2018 (Effective on Apr.1, 2019)

Background:

Japanese Labor Standards Act provides for the regulation of working hours, overtime working, and annual paid leave. However these regulation

cannot always protect workers. The Labor Standards Act has a limit of working hours : 40 hours per week and 8 hours per day. In spite of the upper limit, many Japanese workers work over time. Overworking can cause heart disease, and a brain and mental illness. It is a big problem that many workers have died because of diseases caused by overworking and committed suicide because of depression brought on overwork. To protect the health of workers, the government needs to regulate to decrease working hours.

In addition to the health of workers, the government puts a weight on the balance of work and private life. There are some working customs that pay little attention to childbearing, care for older parents, and other aspects of private life in Japanese companies. Workers have rights to use various leaves and days off. But they have difficulty using leaves and days off because many companies have customs to evaluate workers who take leaves negatively. Especially Japanese workers cannot have long days off easily.

In Japan, the word “ Black Companies” has been known to workers. This word means companies with violent regulations for employers. “Black Companies” make workers work a long time and do not pay them enough. Many workers in the companies are compelled to quit their jobs in the short term. Workers look at the companies severely and the government tries to exclude the companies from labor market.

On the other side, some employers look to overtime working and longtime working inefficiency and some workers want to work more flexibly. Especially workers who have high skills are targeted for new rules of working hours without premium wages because they need to work more flexibly and receive enough pay.

The Act on the development of laws for the promotion of work style reform (“The Act”) contains these several elements. Some reforms protect workers and give them more time, others may reduce their wages and have them work more without premium wages. Though both the pressure groups of employers and unions would like to change the work style, there is a large gap between employers and workers.

Articles⁴:**(1) Working Hours**

Employers shall not have workers work more than 40 hours per week and more than 8 hours per day, excluding rest periods (Labor Standards Act Article 32). Employers may, in accordance with written agreements with a labor union or a person representing a majority of the workers, extend the working hours or have workers work on days off (Article 36). If an employer extends the working hours or has a worker work on a day off, the employer shall pay premium wages (Article 37(1)).

These rules were not worked as an upper limit of working hours. Each employer has to obey an agreement with unions of working hours and these agreements must not deviate from the Labor Standards Act and Industrial Safety and Health Act. However these laws do not have explicit upper limits. If an employer and union agree on a special clause, employers are able to extend working hours without an upper limit. Though workers are able to get a premium wage, their life and health may be damaged.

The Act sets a mandatory upper limit of working hours. The Act sets a limit of working hours (45 hours per month, 360 hours per year) as a general rule. Even if employers and unions agree the special clause, the upper limit will be applied. The Act gives a grace period for specific industry (driving, building, doctor etc.) and exemption for research and development.

(2) Paid Leaves

Employer shall grant annual paid leave of 10 working days to workers who have been working continuously (Article 39(1)). Workers have rights to have paid leave. They can choose when they get leave. They are

⁴ The contents of the Act on the development of laws for the promotion of work style reform in this paper referred to “the Summary of the Act” (Ministry of Health, Labor and Welfare) <https://www.mhlw.go.jp/stf/seisakunitsuite/bunya/0000148322.html> (Access on 2019/6/10)

The English translation of Labor Standard Act in this paper referred to translation in “Japanese Law Translation” (Ministry of Justice) <http://www.japaneselawtranslation.go.jp/?re=01> (Access on 2019/10/4)

not be obligated to report why they apply for paid leave. Only in cases when the granting of leave would interfere with the normal operation of the business, are employers able to decide when workers have paid leaves. However workers have not applied for paid leave freely in Japanese companies. Their paid leaves are lost by prescription. Though the Labor Standard Act has rules that allow employers to grant paid leaves scheduled or by time unit, these flexible ways to use have cannot promote granting paid leaves.

The Act has employers decide when to use paid leaves for at least five days. This means employers have to grant five paid leaves for workers. Though the government has promoted using paid leaves for workers, workers have felt psychological barriers to apply for paid leaves. The Government has employers remove a negative view of applying paid leaves.

(3) Special clause for professional workers

The provisions regarding working hours in the Labor Standards Act shall not apply to persons in positions of supervision or management (Article 41). Supervisors and managers are not paid premium wages for overtime working because it is granted that they can plan their working time, stand on the side of employers, and receive premium pay. However some “supervisors” and “managers” are in name only. Though they cannot plan their working time and receive little premium pay, they are not paid a premium wage. In some companies, the clause is used for the wrong purpose.

The Act creates a “higher skilled professional worker” system. The new system targets workers who have professional skills, whose work is clearly limited, and who are paid more than 10,000,000 yen per year. With the new system, targeted workers are not paid premium wages when they work overtime, at night, or on days off. The new system requests employers to make a plan to protect worker’s health and agree it with the worker.

The new system will be applied to workers with high skills and high income and let them work in a flexible style. But they lose premium wages. If the income standard for applying the new system becomes lower, the new system may be applied to more workers who are not always

workers with high skills and high incomes.

(4) Other reforms

The Act contains other important reforms. First, the Act promotes an interval time between working time. Second, the Act strengthen the functions of industrial doctors. These reforms are intended to protect the health of workers. Third, the Act make equal treatment for part-time workers, limited time workers and dispatched workers. In some cases, the unequal treatment between regular workers and unregular workers become critical points. The Act promotes equal treatment among various workstyles.

Editorial note:

The Act was discussed in a power balance between employers and unions. It is difficult to understand the Act from an unified perspective because the Act contains reforms in different contexts.

One of the most important purposes of the Act is to protect the health of workers. The point of the regulations for overtime working tends to be focused on the premium wage. On the one side, the premium wage has covered a shortage of wages. However, even if workers can gain premium wages with overtime working, their health and lives are more important than wages. From this point of view, the new system for high skilled professional workers is too focused on income standard rather than protection for worker's health.

6. International Law and Organizations

Multilateral:

| Date Coming into Force with Respect to Japan | Date of Adoption | Title of Treaties and Agreements |
|--|------------------|--|
| Mar. 5, 2018 | Oct. 15, 2010 | Nagoya–Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety |