will be amended to some degree, MOJ will carry out the adoption of colloquial Japanese after such substantial changes have completed to a large extent.

7. Labor Law

Defined Contribution Pension Law

Law No.88, June 29, 2001 (Effective on October 1, 2001, partially amended on April 1, 2002).

Background:

The average life expectancy of the Japanese has risen considerably in the postwar era. Accordingly the proportion of the elderly is increasing and the number of children is decreasing. Because of such circumstances, the current public pension scheme is facing a difficult situation. Therefore, corporate pension plans are becoming more important as a complement to the public scheme. However, the existing corporate pension plans, i.e., defined benefit plans, also have difficulties in coping with social changes and the economic environment, e.g., the introduction of the new accounting standard for corporate retirement plans, lower investment returns on plan assets, and less portability of the benefit to meet with workforce mobility. In order to address these issues, the defined contribution pension law was passed in the 151st session of the Diet, which concluded on June 28, 2001.

Main Provisions:

Art. 1 provides the purposes of this law, which are, in light of the developments toward an aging population with a reduced birthrate and the changes in the socio-economic condition associated with the diversification of the livelihoods of the elderly, to stipulate essential matters regarding the Defined Contribution Pension Plan in order that individuals may receive payments in their later years, based on each individuals' carrying out the instructions for application of this plan by his/her own responsibility, from funds contributed by both the individual and the employer; and to contribute to the improvement of the welfare and stability of the citizenry by supporting the autonomous endeavor of people to secure an income in their later years, combined with payments from a public pension plan.

Art. 2 defines the terminology of this law. Terms such as "defined contribution pension plan", "corporate pension plan", "private pension plan", "employees' pension-eligible workplace", "Association", "employees' pension insureds, etc.", "defined contribution pension plan operational management", "corporate pension plan subscribers", "corporate pension plan investment directors", "individually managed assets" and "sum of individually managed assets" are defined.

Arts. 3–54 state about corporate pension plans. The employer of an employees' pension-eligible workplace, when trying to put a corporate pension plan into effect, must obtain the agreement of the concerned labor union when there is a labor union organized by the majority of the employees' pension insureds, etc. employed by that employees' pension-eligible workplace where the corporate pension plan is to take effect, or the agreement of a majority of representatives of the concerned employees' pension insureds, etc. when there is no labor union organized by the majority of the concerned employees' pension insureds, etc.; draw up rules and regulations regarding the corporate pension plan; and receive the approval of the Minister of Health, Labor and Welfare regarding the rules and regulations concerned (Art. 3 para. 1).

Art. 4 defines the standards for approval of the plan establishment, and Arts. 5 & 6 the modification of rules and regulations.

Employers may entrust a part or all of the operational management services to a defined contribution pension plan operational management institution (Art. 7 para. 1) and a defined contribution pension plan operational management institution may re-entrust a part of the services entrusted to other institutions (Art. 7 para. 2).

Employees' pension insureds, etc. employed in operative workplaces shall be corporate pension plan subscribers (Art. 9). Corporate pension plan subscribers acquire the qualifications of corporate plan subscribers on the day when they are employed at an operative workplace, when a workplace becomes an operative workplace, when those employed at operative workplaces become employees' pension insureds, etc. and when those employed at operative workplaces acquire the qualifications stipulated in the corporate pension plan rules and regulations (Art. 10). They lose the qualifications of corporate pension plan subscribers upon passing away, upon losing employment at an operative workplace, when the employing workplace ceases to be an operative workplace, upon ceasing to be an employees' pension insured, etc., upon losing the qualifications stipulated in the corporate pension plan rules and regulations, and upon attaining age 60 (Art. 11).

Employers shall contribute a premium each month to the asset management institution by the end of the following month (Arts. 19 & 21). The premium must not exceed the limit stipulated by government ordinance (Art. 20).

The defined contribution pension operational management institution that carries out investment-related services for the corporate pension plan subscribers, etc. must select at least three of the investment policies laid out in the following and present them to the corporate pension plan subscribers, etc. In this case, any one or more must be one that can secure the principal (Art. 23).

- Deposit in a deposit or saving account
- Trust to a trust company
- Buying and selling of securities
- Payment of life insurance or postal life insurance premium, or mutual aid premium of mutual-aid life insurance
- Payment of accident insurance premium
- A contract that is adapted to the attempt to protect investors and other necessary conditions stipulated by government ordinance.

Corporate pension plan benefits shall be (1) payments to the elderly, (2) disability benefits and (3) a lump sum upon death (Art. 28).

Those who were corporate pension plan subscribers, as laid out in the following may file a claim for the provision of payments to the elderly when they have a total subscribers, etc. period of at least the number of years or months stipulated in the following (Art. 33 para. 1):

- Persons at least age 60, and under age 61 10 years
- Persons at least age 61, and under age 62 8 years
- Persons at least age 62, and under age 63 6 years

• Persons at least age 63, and under age 64	4 years
• Persons at least age 64, and under age 65	2 years
• Persons at least age 65	1 month

Arts. 55–79 stipulate about private pension plans. The National Pension Foundation Association ("Association") must draw up the rules and regulations regarding the private pension plan, and receive approval from the Minister of Health, Labor and Welfare (Art. 55 para. 1). The Association must entrust the operational management services to a defined contribution pension plan operational management institution (Art. 60 para. 1).

The persons laid out in the following may apply to the Association and become private pension plan subscribers (Art. 62 para. 1).

- Item 1 insureds provided for in Article 7, paragraph 1, Item 1 of the National Pension Law
- Insureds of the employees' pension insurance under age 60 (excluding corporate pension plan subscribers, members of the Employees' Pension Fund and others stipulated by government ordinance)

The private pension plan subscribers, etc. shall themselves designate the defined contribution pension plan operational management institution to carry our operational management services relating to the said subscribers, or modify that designation (Art. 65).

Private pension plan subscribers shall contribute a premium each month to the Association (Art. 68 para. 1 and Art. 70 para. 1). The sum of private pension plan subscribers' premium may not exceed the contribution limit sum stipulated by government ordinance (Art. 69).

Arts. 80–85 stipulate transfer of individually managed assets. Art. 80 is for those who became corporate pension plan subscribers, Art. 81 for those who became private pension plan subscribers, Art. 82 for those who became private pension plan investment directors and Art. 83 for other persons.

The government shall take necessary measures for the imposition of income tax, corporate tax and inheritance tax, as well as prefectural tax and municipal tax for the premium, reserve funds and benefits of the defined contribution pension plan (Art. 86).

No corporation that has not received registration from the competent minister may run defined contribution pension plan operational management services (Art. 88 para. 1).

Editorial Note:

This new law allows Japanese companies to adopt defined contribution plans (corporate pension plans) similar to the 401(k) plan in the United States. Therefore, such a defined contribution plan is sometimes called a Japanese-type 401(k) plan. This new law also allows an individual who is either self-employed, or employed but not covered by any pension plan at work, to make contributions to a plan (private pension plan). It is expected by implementing this law, to promote greater participation in pension systems for small companies and the self-employed, and to preserve the portability of pensions when changing employment.

Unlike the U.S. 401(k) plan, contribution to the corporate pension plan must be made entirely by the employer up to the limit stipulated by the government ordinance. The contribution limits depend on whether the employer has an existing defined benefit plan or not. If the employer has a defined benefit plan, the contribution is limited to ¥216,000 per annum. If not, ¥432,000 a year. A self-employed individual may contribute up to ¥816,000 per year to a private pension plan. An individual who is not covered by either a defined benefit or a defined contribution plan at his/her company may contribute up to ¥180,000. It is criticized from practitioners that the limit is too low.

In the defined contribution plan, the amount of pension will increase or decrease according to how skillfully it is managed. As a result, risky financial products, such as stocks and investment trusts, will enter the traditionally safe and conservative pension market. Since the responsibility for the investment result under the defined contribution plan is passed on to each individual, a failure in investment will directly impact on the individual's post-retirement life. Therefore, it is very important to educate employees about various financial products.

After the amendment to this law on April 1, 2002, a number of companies has adopted defined contribution plans. It is reported that 134 companies had adopted such plans by the end of July, 2002.