

from January, 2011.

The necessary cabinet orders and ordinances will be arranged, according to the gradual enforcement of the Commodity Futures Trading Act.

7. Labor Law

Partial amendment to the Act on the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care and Family Care Leave

Act No. 76 of May 15, 1991 (Effective on June 30, 2010, with some exceptions)

Background and purpose of this revision

The decline in the birthrate continues to develop in Japan rapidly, which is producing concern about the negative effects on society and the economy, including the reduction in the workforce and the reduction of the vitality of the community. However, the difficulty of continuing to work while taking care of children or other family members still remains, although more and more persons hope to balance work life and family life regardless of gender. As for women, the rate of women before childbirth with a job exceeds 70 percent, but the number of women after childbirth with a job accounts for only some 30 percent of that figure. Some 70 percent of female workers leave their job immediately after they give birth to the first child. As for men, still few male workers take care of children. For instance, the rate of male workers who took child care leave is only 1.56 percent. It is urgently needed to eliminate the current situation under which a person is pressed to choose between the two - work or family for the purpose of achieving workers' right to work and gender equality and developing the society and companies in terms of securing human resources and improving the birthrate.

Therefore, it is important to promote policies for balancing work life and family life by reducing the long work hours of all workers, for instance, and particularly, also to strengthen support for workers pressed

for time owing to childcare and care of the elderly. Considering the above conditions, this revision of the Act has the following aims, among others: the first purpose is to improve the system to help balance child care and work; the second to improve the system to encourage fathers to take care of children together with their partners; the third to improve the system to support the balance of work and care for the elderly; and fourth to enhance the system to secure legal effectiveness.

Major points of revision

1. Improving the system to help continue to work while taking care of children

(1) Mandatory system for shorter working hours (Article 23, paragraph 1)

Under the unrevised Act, employers were obliged to form at their own option one system from among various systems for shortening working hours, immunity from overtime work, working flex time, staggered shifts, or the like. That is, before the Act was revised, workers did not have the power to specify which system a worker would take advantage of.

This revision obliged employers to form a system for shortening working hours, in cases where workers who take care of a child under three years of age apply for it. This is designed to reform the system regarding way of working for women returning from maternity leave or childcare leave, as the biggest reason why women leave a job on the ground of childbirth is the physical difficulty of continuing work while balancing work and family life. Upon application, every worker gets a reduction of working hours regardless of gender. However, with a written agreement between an employer and a trade union representing the majority of workers, an employer is immune from forming a system for shorter working hours for the following three types of workers: (1) a worker working for less than one year (Article 23, paragraph 1-1), (2) a worker recognized to have justifiable reasons to allow an employer to refrain from applying shorter working hours to him/her (paragraph 2), and (3) a worker engaged in a job which an employer has difficulty in forming a system for shorter working hours in the light of the nature of the job or the implementation system of a job (paragraph 3). Above all, the Paragraph 3 is an important provision needing attention in order not to damage the intention

of the Act as a result of weak application.

- (2) Improving a system for helping taking sick/injured child care leave (Article 16, paragraph 2)

Under the unrevised Act, the number of days permitted a worker with a preschool-aged child to take leave for the care of a sick child was five a year across the board, regardless of the number of children. However, the more children an employer has, the higher the need to get off work. Accordingly, this revision provides a worker with one preschool child with five days of leave, and a worker with more than two children with ten days a year.

2. Improving the system to encourage fathers to take care of children together with their partners

- (1) Extension of the period of leave in cases where a mother and a father take child care leave together (Article 9-2)

Under the unrevised Act, a worker could in principle take child care leave before the child reached the first birthday, regardless of whether the mother or father took it. Under the revised Act, a mother and a father can take child care leave before a child reaches one year and two months of age, when both want to take it at the same time.

- (2) Special exemption allowing a father a second child care leave (Article 5, paragraph 2)

Under the unrevised Act, a worker could take child care leave once for one child, and he could take it again only when he had a special situation such as a spouse's death. This revision allows a father to take child care leave again without the above situations, if he takes it within eight weeks of the birth of his child.

- (3) Removal of provisions on exempting a worker with a housewife (househusband) from the list (Article 6-1)

Under the unrevised Act, through a collective agreement between an employer and a trade union representing the majority of workers, an employer could exempt a worker with a housewife (househusband) or a spouse on child care leave, from the list of those who can take child care leave, except for the period of eight weeks after delivery of the child. However, this revision removed the said provisions on exempting a worker with a housewife (househusband) from the list of those who could take child care leave.

3. Improving the system to support balance of work and care of the elderly (Forming a system for taking short leave) (Article 16, paragraph 5 and 6)

Under this revision, a system for taking short leave for a worker with a family member who requires nursing care was formed. A worker (with some exceptions) can take leave for care of the elderly up to five days a year for one worker with one family member requiring nursing care, or up to ten days a year with more than two family members. Until now, a worker couldn't help but take annual paid holidays or stay away from the office, or leave a job or change jobs because of family care-giving or nursing care, which became a problem. The new systems are to eliminate such obstacles.

4. Enhancing the system to secure legal effectiveness.

(1) Forming a system for settlement of disputes on child care leave (Article 52, paragraph 2, Article 2, Article 52, paragraph 2)

Until now, disputes regarding pregnancy or delivery were treated through systems of settlement assistance or mediation under the Equal Opportunity Employment Law. However, there has been no system for the settlement of disputes arising from child care leave. Under this revision, a system for supporting the settlement of disputes or mediation concerning what is defined in this Act through the Chief of the Prefectural Labor Office was established.

(2) New measures for sanctions against legal violations (Article 52, paragraph 4)

Until now there has been no measure for sanction against violation of the Act, and the low effectiveness of the Act has been the issue. However, this revision incorporated some measures for sanctions including disclosure of the name of companies who do not comply with a correction recommendation from the Minister of the Health, Labor and Welfare Ministry as well as a new provision imposing fines where an employer failed to report, although the Minister of Health Labor, and Welfare Ministry or the Chief of Prefectural Labor Office had asked them to do so, or reported falsely.

Partial amendment to the Labor Standards Law

Law No. 89 of December 12, 2009 (Effective on April 1, 2010)

Background and purpose of this revision

The total average working hours of Japanese workers from the 1970s to 1980s exceeded 2,000, bringing about such serious problems as *Karoshi* or death by overwork, which drew sharp condemnation from inside and outside Japan. After that, some efforts were made to shorten working hours. In those years, the total working hours reduced to some 1800 hours, and since then it has remain at the same level. However, the rate of workers working for more than 60 hours a week exceeds 10 percent. Above all, in the case of male workers at age 30, who take care of small children, more than 20 percent of them work for more than 60 hours a week. Since birthrates are presenting a problem, it is becoming an important issue to consider not only the total average working hours but also to reduce the working hours of male workers with small children.

Considering this background and history, the Law was revised to raise the rate of payment for overtime work and to make good use of annual paid holidays so as to reduce long working hours, secure workers' health and the balance between work and life.

Major points of the revision

1. Increasing the payment rate for overtime work exceeding 60 hours per week

(1) Raising the extra rate from 25% to 60% (Article 37, paragraph 1)

An employer has been obliged to pay extra payment of more than 25 percent to workers who worked for longer hours than stipulated by law (however, the extra rate for work late at night and for work on holidays depends on other calculations).

Under this revision, the statutory extra rate for overtime work exceeding 60 hours a month was raised to 50 percent. However, a postponement has been granted to small businesses for the time being, and this will be considered again three years after its implementation.

(2) Allowing paid holidays in place of extra pay (Article 37, paragraph 3)

Under this revision, when an employer makes a collective agreement with a trade union representing the majority of workers or with a person representing a majority of the workers, an employer may give paid holidays to workers who worked for more than 60 hours a month, in place of

extra pay covering the amount increased by this revision (the balance amount (25 percent) increased from 25 to 50 percent), provided that an employer has to pay the current extra pay of 25 percent.

2. System for obtaining annual paid holidays by the hour (Article 39, paragraph 4)

It was originally provided that annual paid holidays should be obtained by the day. However, under this revision, if an employer makes a collective agreement with a trade union representing the majority of the workers or a person representing a majority of the workers, workers can obtain annual paid holidays by the hour; however, annual paid holidays covered by this provision here should be up to five. The Act was revised so that workers could take holidays by the hour to go to hospital, however, the purpose for obtaining the said holidays are unlimited. Workers have options to obtain the holidays by the day or by the hour.

8. International Law and Organizations

Multilateral:

| Date Coming into Force with Respect to Japan | Date of Adoption | Title of Treaties and Agreements |
|--|------------------|--|
| Feb. 20, 2009 | Jun. 15, 2006 | Convention concerning the Promotional Framework for Occupational Safety and Health |
| Aug. 1, 2009 | Apr. 11, 1980 | United Nations Convention on Contracts for the International Sale of Goods |
| Aug. 10, 2009 | Sep. 23, 1997 | Fourth Amendment of the Articles of Agreement of the International Monetary Fund |

Bilateral:

| Date Effective | Date Signed | The Other | Title of Treaties and |
|----------------|-------------|-----------|-----------------------|
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