

shares or voting rights of all shareholders of the 100% owned parent company can pursue the liability of the subsidiaries' directors.

As for the transfer of subsidiaries' shares by the parent company, a new legislation is proposed that requires from the parent company the special resolution of a general meeting of shareholders in the case of the transfer of important subsidiaries' shares.

Regarding the subsidiary company's creditor and minority shareholder protection, as to the conflict of interest transactions with the parent company, the Outline Proposal requires the subsidiaries to fully disclose the information of the transactions.

On the other hand, this time, creating an express provision which clarifies the parent company's responsibility in case of having the conflict-of-interest transactions between the parent company and subsidiaries has been shelved.

The creation of a system of "Cash Out(request for sale of shares by controlling shareholders)" is proposed in the Outline Proposal. It is intended as a protection of the rights of shareholders who are subject to shutout in the reorganization, etc., and to ensure the legal stability of the reorganization act.

Furthermore, creating the shareholder's right of an injunction against the reorganization is included in the Outline Proposal. Regarding the operation method for the opposing shareholder's right to demand the purchase of shares in reorganization, some review has been proposed, such as establishing a new purchase account system which manages the shares of the opposing shareholders temporarily in order to prevent the opposing shareholders exercising their right in an opportunistic and abusive way.

6. Labor Law

The Law on Partial Revision of the Labour Contract Act
(referred to hereinafter as "the Act")

Act No. 56 of 2012, enacted on 10 August 2012

Background and purpose of this revision

A Term Employment Contract is a type of employment contract widely used for the forms of employment other than the so-called regular (“seishain”) employment (i.e. full-time employment based on an open-ended employment contract), such as part-time employment and dispatched (or agency) employment. It is estimated that roughly 12 million people in Japan are employed under the term employment contract. Approximately one third of those workers have been employed under the term employment contract for the continuous period of more than 5 years, as a result of repeated renewals of their contracts. The unstableness of employment due to reluctance of employers to renew the contract has been one of the pressing issues for the legislators to address. The other issue attracting continued attention has been to ensure that the terms and conditions of employment are not unfairly downgraded for those employed under a term employment contract. The purpose of the present revision of legislation is to address those issues effectively and provide better stability of employment whereby workers can work feeling more secured about the continuity of their employment.

Major points of revision**a) Conversion of the term employment contract to an open-ended employment contract (Art.18 of the Act)**

Art.18 of the Act provides that in the case where a term employment contract with the same employer has been repeatedly renewed for the period exceeding 5 years, an open-ended employment contract is established, upon the employee indicating his will to convert the contract to an open-ended one (the employer’s consent is then deemed to have been given). In other words, it is dependent on the will of the employee whether or not the contract will convert to an open-ended employment contract. The indication of will shall be made within the term in which the respective term employment contract has been in force for 5 continuous years, starting from the day of its commencement and ending on the day of its termination. An arrangement in which the employee is factually deprived of the right to make such an indication of will in the future (e.g. waiver of right is made the condition of conclusion (or renewal) of an employment contract) is not allowed as it disregards the purpose of law

and any such waiver made by an employee will be deemed null by virtue of law.

b) Incorporation of case-law concerning termination of employment (on the grounds of refusal of extension of the contract) (Art.19 of the Act)

Art.19 of the Act provides that either in the case where a) a term employment contract has been repeatedly renewed and termination of a term contract can be regarded as being equal to ‘dismissal’ in light of the generally accepted wisdom, or b) there has been a reasonable ground on the part of the worker to expect that the contract would be renewed at the time of termination of the contractual period of the contract and the termination of the contract by the employer lacks objective reasonable ground rendering it unacceptable in light of the generally accepted wisdom, such termination does not have legal effect with a consequence that a new term contract is established inheriting the same terms and conditions (including the length of the contractual term) as the previous contract. The earlier case (a) incorporates the requirements as presented in the *Toshiba Yanagimachi Factory* case (Judgment of the Superior Court dated 22 July 1974, MINSHU Vol.28, No. 5, Item 927), whereas the latter incorporates those of the *Hitachi Medico* case (Judgment of the Superior Court, 4 December 1986, ROUHAN Vol. 486, Item 6).

Whether a particular case comes under the requirements of type a) or type b) case will be considered on a case-by-case basis, an approach adopted by the courts in the precedent cases, taking into account the characteristics such as the level of emergency of the termination concerned, number of renewals, total period of consecutive employment, the circumstances concerning the management of contractual period and the employer’s words and deeds which are indicative of the continuation of the employment.

c) Prohibition of unfair terms and conditions by reason of “definite” nature of the contract

The Act now stipulates that in the case where there are differences of the terms and conditions of employment between an open-ended contract and a term contract, it shall not be the “definite” nature of the contract that determines the “unfairness” of such differences (Art.20). The judgment of “unfairness” shall be based on the following factors: the nature of work

(the actual content of job the employee performs and the level of responsibility entailed); the scope of possible alteration to the nature of work and position (the scope of possible alteration to the placement of personnel including relocations and promotions as well as to the role of the worker which does not involve change of the position); other relevant circumstances, including reasonable practices deployed by the management and labour.

Editorial Note:

In view of the above-mentioned rapid increase in the number of term employment contracts, the latest revision of the Labour Contract Act aimed at easing some of the instabilities associated with term employment and removing the inequalities of employment conditions resulting from the differences in the terms of employment contracts. In relation to the former, the art.18 of the Act now provides that in the case where a term employment contract with the same employer has been repeatedly renewed for the period exceeding 5 years, an open-ended employment contract is established, upon the employee's indication of will to convert the contract to an open-ended one (in which case the employer's consent is not required). Further, art.19 of the Act now incorporates the case-law on termination of term contracts, which in some cases allows for the invalidation of termination on the analogy of the principles of law concerning unfair dismissal. As for the removal of inequalities, the art.20 now clearly provides that any differences of employment conditions existing between an employee employed on a term contract and an employee employed on an open-ended contract cannot be unfair or unreasonable.

7. International Law and Organizations

Multilateral :

Date Coming into Force with	Date of Adoption	Title of Treaties and Agreements
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