

New Action Plan for Realisation of Work Style Reform

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Legal reform

Practical considerations

On March 28 2017 the Council for the Realisation of Work Style Reform approved the Action Plan for the Realisation of Work Style Reform. To implement the action plan, which the government has since adopted, certain legal amendments must be enacted. A number of related bills are expected to be tabled before the National Diet in 2017 and will likely garner significant attention.

Legal reform

The action plan aims to introduce an overtime regulation with accompanying penalties to address the culture of long working hours. Specifically, under the existing legislation, if an employer concludes a so-called '36 agreement' (ie, a labour management agreement regarding overtime with special conditions) pursuant to the Labour Standards Act with its employees, it can engage the employees in unlimited overtime (for further details please see "[Ministry of Health, Labour and Welfare strengthens overtime regulations](#)").

According to the action plan, the aim of amending the Labour Standards Act is twofold:

- It will establish fixed overtime limits, regardless of whether employers have entered into 36 agreements with employees.
- It will encourage compliance through the imposition of penalties.

Based on a March 13 2017 agreement between the Japan Business Federation and the Japanese Trade Union Confederation, the action plan sets out the direction of the legal reform as follows.

Overtime regulation

In principle, overtime will be limited to 45 hours per month and 360 hours per year. With the exception of special circumstances, penalties can be imposed on employers whose employees exceed these limits in violation of the act. Overtime cannot exceed 720 hours per year (ie, an average of 60 hours per month) in any case, including where a 36 agreement has been concluded or special circumstances apply.

In addition, where employees' workloads are temporarily increased within the 720-hour limit, their overtime hours must be:

- capped at a monthly average of 80 hours (including holiday overtime) for periods between two and six months; and
- less than 100 hours (including holiday overtime) for any single month.

The exceptions to the rule that limits overtime to 45 hours per month and 360 hours per year can be applied a maximum of six times per year.

Interval system (obligation to make efforts)

Under this system, employers must make efforts to ensure a minimum interval between the end of

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one working day and the start of the next. An expert panel, which will include labour and management representatives, will be established to promote widespread use of the interval system.

Equal pay for equal work

In following the 'equal pay for equal work' principle, the action plan aims to align the treatment of regular and non-regular employees, which in turn is expected to improve the working conditions of non-regular employees.

The government published the Draft Equal Pay for Equal Work Guidelines in December 2016. In addition to a base salary, the draft guidelines include various other benefits, welfare initiatives and safeguards for balanced and uniform education and training. Under the action plan, judicial relief can be obtained by way of court rulings to ensure the effectiveness of the draft guidelines. A legislative reform – namely, amendments to the Part-Time Employment Act, the Labour Contract Act and the Worker Dispatch Act – will be implemented to provide the basis on which this relief can be obtained.

The outline of the action plan is as follows:

- Laws and regulations that will form the basis of employees' judicial relief claims will be developed.
- Employers must explain the treatment of their employees, including:
 - the treatment of regular employees pre and post-hiring; and
 - the reasons for differences in the treatment of regular and non-regular employees, where requested to do so.
- An administrative dispute resolution process will be provided.
- Laws concerning dispatched workers will be amended.

Practical considerations

In view of the reconsideration of working hours management and the move towards reforming the treatment of non-regular employees, there is a pressing need for companies to reconsider their labour management systems in 2017.

Concurrently, the productivity of white-collar workers will need to be increased. In order to make it easier for employees to balance the advancement of their careers with other responsibilities – such as childcare and nursing care – companies will need to consider introducing flexible work practices (eg, telecommuting).

It is crucial that companies innovate and reform their work practices in the context of the existing labour law framework, rather than wait for the action plan's legal reform.

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