

Bill for the Partial Amendment of the Industrial Safety and Health Act and Other Related Acts

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1. Introduction

A bill for the Partial Amendment of the Industrial Safety and Health Act and Other Related Acts was approved by the Cabinet on September 30, 2005, and presented during the 163rd special Diet session. After undergoing subsequent examination in the Lower and Upper Houses, it was approved on October 26, 2005, and promulgated on November 2 of the same year.

Amidst growing competition between corporations and a diversification of work styles, the amendment intends to respond to an aggravation of issues related to workers' lives: 1) frequent occurrence of serious accidents due to lack of voluntary safety and health activities; 2) an increase in health problems associated with long labor hours for persons with high work volumes; 3) difficulties securing family time for those raising children; and 4) an increase in the number of workers transferred away from home and those with multiple jobs who require more extensive protection during their commute/travel (Takeno 2006, 21).

Specific items in the amendment include: overwork and mental health (2.2), voluntary safety and health activities (2.3), the improvement of labeling and delivery of documents for containers and packages containing chemical substances (2.4), provision of information regarding hazardous materials from the orderers to the contractor (2.5), liaison and coordination on related works by principal employers of manufacturers (2.6), as per the Industrial Safety and Health Act; defining the scope of commuting accidents suffered by workers transferred away from home and those with multiple jobs (3) as per the Industrial Accident Compensation Insurance Act; and an amendment to the Act on Special Measures Concerning the Improvement of the Establishment of Working Hours (4) as per the Act on Temporary Measures Concerning the Promotion of the Reduction of Working Hours.

2. Partial Amendment of the Industrial Safety and Health Act

2.1. Industrial Safety and Health Act

The Industrial Safety and Health Act is a law for the prevention of industrial accidents. Formerly a chapter entitled “Safety and Health” from the Labour Standards Act, it was extracted and formulated into law in 1972. The Act was designed to facilitate the prevention of more complex industrial accidents, which required the establishment of extensive and diverse provisions obligating not only employers but also many related parties, thus rendering it quantitatively impossible to contain in a single chapter of the Labour Standards Act. Qualitatively, it was also appropriate to establish a law independent of the Labour Standards Act, which deals primarily with obligations for employers (Obata 1995, 224-26; Obata 2000b, 7; Obata 2003a, 772).

The purpose of the Industrial Safety and Health Act is provided in Article 1 as follows: “The purpose of this law is to secure, in conjunction with the Labour Standards Act..., the safety and health of workers in workplaces, as well as to facilitate the establishment of comfortable working environment, by promoting comprehensive and systematic countermeasures concerning the prevention of industrial accidents, such as taking measures for the establishment of standards for hazard prevention, the clarification of responsibility and the promotion of voluntary activities with a view to preventing industrial accidents.”

The Industrial Safety and Health Act consists of twelve chapters. The Act establishes a declaration of general responsibilities for relevant parties (Chapter 1), specific obligations including the obligation to develop a safety and health management system (Chapter 3), the obligation to take necessary measures for preventing the hazards or health impairment of workers (Chapter 4), the obligation to comply to regulations concerning machines and hazardous substances (Chapter 5), the obligation to take necessary measures such as safety and health education in placing workers (Chapter 6), obligations relevant to health care such as working environment measurement and medical examination (Chapter 7), and the dissemination of the law and ordinances, etc. (Chapter 11), and provides penal provisions (Chapter 12) and inspections, etc. (Chapter 10) to ensure its performance. Furthermore, the Act provides administrative policies, such as establishment of an industrial accident prevention program, etc. in Chapter 2, prohibition and permission for manufacturing, inspection, examination, etc. in Chapter 5, license, etc. in Chapter 8, instructions for the formulation of a safety and health improvement program, etc. in Chapter 9,

and in review investigation of plan previously submitted, etc. in Chapter 10, to promote occupational safety and health from a variety of angles (Obata 2000b, 7; Obata 2003a, 774).

2.2. Overwork and Mental Health

2.2.1. Conditions Prior to the Amendment

In reference to Chapter 7 of the Industrial Safety and Health Act entitled “Measures for Maintaining and Promoting Industrial Health,” active preventative measures taken through a clinical approach have gained attention in recent years (Obata 2000a, 6-11; Obata 2000b, 13; Obata 2001, 18). The number of workers suffering from job or workplace-related problems or stress has risen along with changes in industrial structures and the advancement of technical innovations, making *Karoushi* or death from overwork a major issue in Japanese society. In response to this, an amendment made in 1996 called for the enhancement of workers’ health management in the workplace through means including: 1) hearing medical doctor's advice on the results of medical examination (Article 66-4); 2) measures following conduction of medical examination (Article 66-5), 3) notification of the results of general medical examination (Article 66-6), and 4) health guidance etc. (Article 66-7) (Obata 2000b, 13; Obata 2003a, 780; Obata 2007, 37).

The Comprehensive Program for the Prevention of Health Impairment Due to Overwork (February 12, 2002, LSB No.212001) by the Ministry of Health, Labour and Welfare in 2002 includes: 1) notification and education for the prevention of health impairment due to overwork; 2) guidance concerning limitations on the extension of working hours; 3) guidance to restrict actual overtime work for employers where overtime work exceeding 45 hours per month and to ask for the opinions of the medical advisor on industrial health by submitting relevant information; and 4) in cases of overtime work exceeding 100 hours per month or in cases in which the monthly average overtime work in a period of two to six months exceeds 80 hours, the employers shall provide information with respect to workers engaged in the relevant overtime work to the industrial physician, and shall have the worker receive health guidance through an interview with the industrial physician. If deemed necessary by the industrial physician, the employer shall have the worker undergo medical examinations for matters that the industrial physician considers necessary, shall heed the opinions of the relevant industrial physician, based on the results,

and shall take necessary follow-up measures (Obata 2003a; 780).

As for mental health, the Guidelines for Promoting Mental Health Care in Enterprises (August 9, 2000, LSB No.522-2), established in August 2000, obligated employers to establish a program to promote workers' mental health (Obata 2003a, 781; Obata 2007, 37).

2.2.2. Reason for the Amendment

The number of cases in fiscal year 2003 qualifying for workers' compensation due to brain and/or heart disease clearly resulting from overwork was 310 (Takeno 2006, 21), and the number of cases qualifying for workers' compensation due to mental disorder caused by psychological burden or due to suicide as a result of such mental disorder exceeded 100 in the same year (Takeno 2006, 22).

In response, the Ministry of Health, Labour and Welfare established the Overwork and Mental Health Measures Commission in April 2004 to allow employers and other related individuals to make further efforts. The commission then compiled a report in August 2004 (Takeno 2006, 22).

Consequently, to prevent health impairment due to overwork it was recommended that face-to-face guidance with a physician be provided in cases where monthly overtime exceeded 100 hours, a circumstance with a purportedly strong correlation to brain and/or heart disease. The recommendation also suggested that worker's mental health be checked as a part of said face-to-face guidance (Takeno 2006, 22).

2.2.3. Contents of the Amendment

According to the amendment, should workers with mounting fatigue due to overwork from circumstances including long hours of overtime meet certain requirements, including working hours conditions, employers have an obligation to provide them with face-to-face guidance with a physician and to take necessary measures based on the result of such guidance in order to promptly evaluate the worker's health and take any necessary measures to determine if they are at an increased risk of developing brain and/or heart disease (Takeno 2006, 23; Obata 2007, 38). As per those requirements provided in the Ordinance of the Ministry, such face-to-face guidance is provided for workers whose monthly working hours exceed 100 with over 40 weekly working hours who are found to suffer from mounting fatigue and who make

such a request (Re: Article 66-8).

Items checked by the physician include: 1) working conditions (such as overtime and working late-night shifts); 2) risk factors for brain and/or heart disease; and 3) symptoms due to stress (insomnia, loss of appetite, fatigue). The physician is also required to check the worker's mental health status (Takeno 2006, 24).

The amendment further states that in addition to the workers for whom the face-to-face guidance is provided under the provision, employers shall endeavor to provide face-to-face guidance or other similar measures to workers who are found to suffer from mounting fatigue attributable to working long hours (Re: Article 66-9).

2.3. Voluntary Safety and Health Activities

2.3.1. Conditions Prior to the Amendment

The Industrial Safety and Health Act included provisions and detailed regulations with ordinances regarding obligations to take measures for preventing the hazards or health impairment of workers (Chapter 4), and obligations for compliance with regulations concerning machines and hazardous substances (Chapter 5) (Obata 2000b, 7; Obata 2003a, 773). Legal regulations and enforcement alone are not sufficient to successfully achieve the purpose of the law: the prevention of industrial accidents. As the purpose of the Act states, the promotion of voluntary activities is also effective.

Regarding said voluntary activities, the 9th Industrial Accident Prevention Plan called for the establishment of guidelines for a labor safety and health management system, which to a certain degree became prevalent as a continuous and ongoing safety and health management system that clearly defines a series of processes in the PDCA cycle: plan, do, check, and act (Obata 2000b, 15; Obata 2003a, 776).

2.3.2. Reason for the Amendment

Although the number of industrial accidents has been decreasing over the long-term, 530,000 workers still suffer annually from such accidents. In fiscal year 2004, death toll reached 1,620, and the casualty toll of workers who had taken four or more days of leave was 122,804. The number of serious accidents with three or more victims at one time increased from 141 in 1985 to 274 in 2004. Since the summer of 2003 in particular, major corporations in Japan

have been suffering from serious industrial accidents including explosion and fire (Takeno 2006, 21).

In response, the Ministry of Health, Labour and Welfare implemented a Voluntary Inspection Concerning the Safety Management in Large-scale Manufacturing Industries in November 2003. The Ministry of Internal Affairs and Communications, the Ministry of Health, Labour and Welfare and the Ministry of Economy, Trade and Industry jointly held a Liaison Conference of Related Ministries for the Promotion of Industrial Accident Prevention and examined measures to prevent industrial accidents by exchanging information gathered through each ministry's efforts and holding hearings for industries. In March 2004, the Future Industrial Safety and Health Measures Commission was established and a report was compiled in August of that year (Takeno 2006, 21).

These reviews identified that the following points were essential to the prevention of serious accidents including explosion and fire: 1) the importance of efforts made by management; 2) the need for understanding and the establishment of measures for hazards and toxicity; and 3) the need for liaison and coordination with contractors (Takeno 2006, 21).

It was also pointed out that: 4) with production processes becoming more diversified and complicated, hazards and toxins in the workplace have diversified with the introduction of new chemical substances, making them increasingly more difficult to understand. Therefore, in addition to complying with hazard prevention standards provided in acts and regulations, it is essential for corporations to voluntarily identify hazards and toxins, evaluate them, and implement measures to reduce them (Takeno 2006, 22).

2.3.3. History of the Amendment

Based on the reports mentioned above in 2.2.2 and 2.3.2, the Labour Policy Council Safety Session began a review in September 2004 on the establishment of an environment to promote employers' voluntary efforts toward safety and health, as well as labor safety and health measures for overwork and/or mental health. The Council then presented a recommendation to the Health Minister on Future Industrial Safety and Health Measures on December 27 of that year (Takeno 2006, 22).

Based on this and other Council recommendations regarding improvements to the industrial accident compensation insurance system and the future measures for working hours described below, the Ministry of Health, Labour and Welfare

compiled the Outline of the Bill for the Partial Amendment of the Industrial Safety and Health Act and Other Related Acts by including the abovementioned recommendations, and on January 24, 2005 consulted the Labour Policy Council. The following month, on February 3, the Council instructed the Health Minister to develop a bill, which set in motion the planning and introduction of the Bill for the Partial Amendment of the Industrial Safety and Health Act and Other Related Acts to the Diet following a Cabinet meeting decision on March 4, 2005 (Takeno 2006, 22).

Although the bill was repealed amid the dissolution of the Lower House, a bill with the same content received Cabinet approval at a meeting on September 30, 2005, and was re-introduced during the 163rd special session of the Diet. Following examination by the Upper and Lower Houses, it was approved during an Upper House plenary session on October 26, 2005, and was promulgated as Act No. 108 of 2005 on November 2 of that year (Takeno 2006, 22).

2.3.4. Contents of the Amendment

The amendment stipulates that each employer is obligated to do the following: 1) the employer shall endeavor to investigate the danger or harm and/or toxicity due to buildings, facilities, raw materials, gases, vapors, dust, etc. and those arising from work actions and other duties, 2) based on the results thereof, the employer shall endeavor to take necessary measures to prevent danger or health impairment to workers (Re: Article 28-2).

Furthermore, to promote voluntary safety and health activities on the part of the employer, those who are certified by the head of a relevant labor standards supervision office as appropriately implementing an industrial safety and health management system incorporating the above hazards and toxicity are exempted from the obligation to employer provided in the existing Industrial Safety and Health Act, Article 88, Paragraph 1 and 2 to submit a prior notification of a plan when the employer intends installing etc., the building, machines, etc. (Re: Article 88).

2.4. Improvement of Labeling and Delivery of Documents for Containers and Packages Containing Chemical Substances

2.4.1. Conditions Prior to the Amendment

The former Labour Standards Act included a general provision prohibiting

the manufacture of toxic materials. The Industrial Safety and Health Act developed and expanded the system of permission for manufacturing (Article 56) and labeling (Article 57) (Obata 2000b, 5; Obata 2003a, 781). An employer who intends to manufacture or import a chemical was obligated to undertake an investigation of toxicity (Article 57-3). In connection with this, the Minister of Health, Labour and Welfare is obliged to instruct the employer to carry out an investigation and to report the result, and recommend the employer to take measures for preventing workers' health impairment (Article 57-4). Generally, the employer is obliged to endeavor to investigate the toxicity of chemical substances and take necessary measures for preventing the impairment of workers' health (Article 58) (Obata 2003a, 781).

As for toxic substances, it was provided in 1978 that an employer who intends to introduce new chemical substance shall investigate the toxicity before introducing it to a workplace (Article 57-2 to 57-4)(February 10, 1978, LSB No.9). In 1979, provision was established for procedure, etc. of investigation of toxicity for new chemical substance. Following an amendment to the Ordinance on Prevention of Hazards Due to Specified Chemical Substances (September 16, 1988, ESB No.84, LSB No.602) in 1988, consideration of a physician's opinion concerning the results of medical examinations was stipulated (Article 40-2 of the above ordinance) in 1996 (Obata 2000b, 11; Obata 2003a, 781).

2.4.2. Reason for the Amendment

Article 57 and 57-2 of the existing Industrial Safety and Health Act provides a delivery system of labels relevant to chemical substances and the Material Safety Data Sheet (MSDS). The goal is to prevent occupational diseases and the like caused by a worker's lack of prior knowledge regarding substances and the toxicity of the chemical substances they employ, as well as to provide precautionary measures for handling such substances (Takeno 2006, 23).

With reference to the labeling and document delivery system, in 2003 the United Nations published its recommendation, "Globally Harmonized System of Classification and Labeling of Chemicals" (hereafter referred to as the GHS UN Recommendation). This recommendation includes a classification of the degree of hazard and toxicity of a chemical substance and the attachment of a corresponding pictogram. It was expected that APEC countries would comply with this recommendation by the end of 2006 (Takeno 2006, 23).

2.4.3. Contents of the Amendment

The subject of the labeling and document delivery system in the existing Industrial Safety and Health Act is limited to toxic substances, and does not make reference to dangerous substances. The GHS UN recommendation, however, addresses both dangerous and toxic substances. Accidents such as explosions and fire have been caused by a worker's lack of knowledge regarding the handling of dangerous materials. Therefore, in accordance with the GHS UN recommendation, the amendment includes a labeling and document delivery system for dangerous materials, as well as the review of the labels to bring them in line with international standards (Re: Article 57, 57-2) (Takeno 2006, 22).

2.5. Provision of Information Regarding Hazardous Materials from the Orderers to the Contractor

2.5.1. Conditions Prior to the Amendment

Obligations placed on the orderer by the Industrial Safety and Health Act were not extensive until recent years.

The Act provides that an orderer who himself carries out the work in the specified undertaking (construction, shipbuilding, etc.), shall, where he has workers employed by his contractor use buildings, etc., take necessary measures for preventing industrial accidents among the workers concerned in respect to the buildings, etc., concerned (Article 31) (Obata 2003a, 775). It also provides that an orderer who himself carries out the work in the specified undertaking shall take the necessary measures for preventing industrial accidents to all of the workers engaged in the specified undertaking at the said work site (former Article 31-2). The orderer shall not instruct the contractor to direct his workers to work in contravention to the Act or to the provisions of ordinances based on it in respect to the said undertaking (Article 31-3).

2.5.2. Reason for the Amendment

In recent years, as the number of businesses outsourcing their services increases, a growing number of services including the renovation, repair, and cleaning of facilities used for manufacturing or employing chemical substances are being outsourced. Some industrial accidents have occurred as a result of the orderer's failure to sufficiently inform the contractor of knowledge regarding such facilities (Takeno 2006, 23).

Therefore, the party ordering the renovation and repair of facilities used for the manufacturing of dangerous and/or toxic chemical substances is now obligated to provide information regarding the danger and/or toxicity of such substances and to provide precautionary measures for handling them (Takeno 2006, 23).

2.5.3. Contents of the Amendment

Article 31-2 of the New Act provides that the orderer of the work for alteration or as provided for by the Ordinance of Ministry of Health, Labour and Welfare pertaining to the facilities manufacturing or handling chemical substances, preparations containing chemicals or other substances which is prescribed in the Cabinet Order, shall take necessary measures concerning said materials to prevent workers of contractors of the said works from industrial accidents.

According to the Cabinet Order, the abovementioned facilities include those that manufacture or handle preparations containing chemicals or other substances or chemical substances possessing a certain danger or toxicity such as flammability or acute toxicity. The work in question deals with the handling of facilities in a manner distinct from its original function for the purpose of manufacturing, renovating, repairing or cleaning, during which accidents occur due to a contractor's lack of knowledge. Details are clearly stipulated in the Ordinance of the Ministry (Re: Article 31-2) (Takeno 2006, 23).

2.6. Liaison and Coordination on Related Works by Principal Employers of Manufacturers

2.6.1. Conditions Prior to the Amendment

As the construction and shipbuilding industries began subcontracting more extensively, the need grew for preventative measures against the frequent accidents occurring at contractor's construction sites (Obata 2000b, 12; Obata 2003a, 775).

In response to this, the Industrial Safety and Health Act provided that the specified principal employer (principal employer who carries out construction work or other business stipulated in the Cabinet Order) shall, in order to prevent industrial accidents resulting from the work of workers employed by him or by the related contractors carrying out work at the same work site, take necessary measures concerning the following matters: 1) establishment and administration

of a consultative organization; 2) liaison and coordination between related works; 3) inspecting tour in the work site; 4) guidance and assistance for the education conducted by the related contractors for the worker's safety and health; 5) specified principal employer who is in a type of industries whose work sites usually differ depending upon works, and carries out undertakings designated by Ministry of Health, Labour and Welfare Ordinance shall make a plan relating to the work process and a plan relating to the arrangement of machines, equipment, etc., in the work site as well as providing guidance on measures to be taken based on this Act and the provisions of ordinances based thereon by contractors using the said machines, equipment, etc., in the execution of work, and 6) necessary matters for preventing the said industrial accidents in addition to the matters listed in the preceding items (Article 30).

2.6.2. Reason for the Amendment

In recent years, the amount of work in which workers of both principal employer and contractor are involved has increased due to a boost in on-premise subcontracting in the manufacturing industry. Accordingly, some industrial accidents occurred due to the principal employer's failure to conduct liaison and coordination with contractors or failure to have contractors conduct such liaison amongst themselves. Results of the Voluntary Inspection Concerning the Safety Management in Large-Scale Manufacturing Industries showed a correlation between higher accident rates and insufficient communication regarding said adjustments (Takeno 2006, 23).

Consequently, it was decided that the amendment shall require the principal employer of manufacturing and other industries to conduct liaison and coordination on related works and to take measures such as unifying symbols, as the existing Industrial Safety and Health Act only requires this of specified principal employers (principal employers of construction and ship-building industries) (Re: Article 30-2) (Takeno 2006, 23).

2.6.3. Contents of the Amendment

A provision similar to the one in Article 30 for the specified principal employer is now provided for the principal employer (Article 30-2).

3. Partial Amendment of the Industrial Accident Compensation Insurance Act

3.1. Background of the Amendment

The object of the Industrial Accident Compensation Insurance Act (enacted in 1947) is to grant insurance benefits to workers in order to give them protection against injury, disease, disability or death resulting from employment, and to promote the rehabilitation of workers who have suffered from such accidents, and assist those workers and their survivors.

Between 1955 and 1975, many workers suffered accidents occurred involving workers during their commute. In response to this, the Industrial Accident Compensation Insurance Act was amended in 1972 so that insurance benefits shall include those in respect of the injury, disease, disability or death of workers resulting not only from employment, but also from commuting (Article 7).

The commuting referred here is defined as the round-trip travel undertaken by a worker with respect to that worker's employment by a reasonable route and means between his or her residence and workplace, excluding commuting which is in the nature of performance of duties (Article 7, Paragraph 2).

Job transfers where workers are transferred away from home without their families to assume new positions are a common practice in Japan. These workers travel between their workplace and home on the weekends, provoking debate as to whether accidents occurring during this travel should be regarded as commuting accidents. Therefore, in 1991, the Ministry of Health and Welfare instructed that the act of commuting from one's workplace to home on the weekends, etc., and commuting back to the workplace at the start of the week, etc., (referred as commuting with return home on the weekends) shall be treated as "commuting" as it is described in Article 7, Paragraph 2 and thus the home shall be treated as "residence" as specified in the same paragraph when such act meets the following two requirements: 1) round-trip travel between the workplace and home is found, in principle, to be recurrent and continuous at a frequency of one or more times per week, 2) the time and distance required for a one-way trip between the workplace and home is, in principle, no more than 3 hours or 200 kilometers (Dake 2003, 890; Obata 2003b, 299).

According to this instruction, travel between the workplace and home where the worker's family resides is considered "commuting," and accidents occurring during said travel are treated as "commuting accidents." However, travel between home and the worker's temporary residence near the workplace would

not be treated as “commuting.” Thus, for example, should a worker suffer an accident while traveling from home to a temporary residence on Sunday in preparation for work the next day, it would not be treated as a “commuting accident.” With such cases gathering attention, there was rising debate as to whether such travel should also be treated as “commuting” (Dake 2003, 891; Obata 2003b, 301). These discussions attracted considerable attention as the number of workers living away from home continued to increase; the number of male workers transferred away from home rose from 419,000 in 1987 to 715,000 in 2002 (Takeno 2006, 24).

With the diversification of employment styles the number of workers holding two jobs has jumped from 550,000 in 1987 to 815,000 in 2002. This also spurred some debate as to whether travel from one workplace to another should be treated as “commuting” (Takeno 2006, 24).

3.2. History of the Amendment

In light of the aforementioned social situation, a Research Group for the Industrial Accident Compensation Insurance System was organized in February 2002 for the key purpose of examining the protection system for commuting accidents. An interim report was then compiled in July 2004. Based on this report, the Industrial Accident Compensation Committee of Labour Conditions Session of Labour Policy Council examined the issue further and proposed a recommendation for the improvement of the industrial accident compensation insurance system on December 21, 2004 (Takeno 2006, 24).

The recommendation indicated that; 1) travel between several workplaces for workers holding multiple jobs should be included in the system since such travel is indispensable to providing labor to the workplace where the worker is traveling. It also pointed out that 2) for workers transferred away from home, travel between a temporary residence and home should also be included in the system, since such transfer is crucial to balancing a worker’s family life and employer’s business needs to have him/her working at a location too far to commute to from home (Takeno 2006, 24).

The history of the bill’s presentation through its approval is similar to the path described in 2.3.3.

3.3. Contents of the Amendment

Traditionally, commuting accidents were defined as stated in the former of

Article 7, Paragraph 2 as noted above in 3.1. The amendment indicates that the commuting referred to in Item 2 of the previous paragraph is defined as the travel specified hereinafter undertaken by a worker with respect to that worker's employment by a reasonable route and means, excluding that in the nature of performance of duties, and outlines the following three types of commuting: 1) round-trip travel between the worker's home and workplace; 2) travel from one workplace to another workplace specified by the Ordinance of the Ministry of Health, Labour and Welfare; 3) travel between residences, preceding or succeeding the round-trip travel listed in Item 1 (limited to those meeting the requirements specified by the Ordinance of the Ministry of Health, Labour and Welfare).

The requirements specified by the Ordinance of the Ministry of Health, Labour and Welfare in the above 3) refer to requirements provided in Article 7 of the Enforcement Rules of the Industrial Accident Compensation Act. They apply to workers who moved to a new residence upon being transferred, owing to the difficulty of daily round-trip travel between the workplace and home with regards to distance or other factors, and those who have: 1) spouses requiring nursing care or who continue working; 2) children in school; 3) parents or relatives requiring nursing care in the area where they carried out their daily lives immediately prior to the transfer.

4. Partial Amendment of the Act on Temporary Measures Concerning the Promotion of the Reduction of Working Hours

4.1. Background of the Amendment

The annual total of hours actually worked in Japan in fiscal year 1991 was 2,008, and by fiscal year 2004 it was down to 1,834 hours. Thus, the expected goal of 1800 hours, based on the Act on Temporary Measures Concerning the Promotion of the Reduction of Working Hours (Act No. 90 of 1992) enacted in 1992, was nearly achieved. In reality, however, the decline in average working hours was caused by a higher ratio of short-hour workers, such as part-time employees. The working hours of regular employees did not actually lessen. Amid fierce competition between corporations, despite a drop in the number of employees working 35 or more to less than 60 hours a week, the number of employees working less than 35 hours or 60 hours or more a week has risen, demonstrating a mounting polarization in the distribution of long and short working hours (Takeno 2006, 25).

Since September 2004, the Labour Conditions Session of the Labour Policy Council has been investigating future challenges facing measures for working hour issues and contemplating a proper course of action. On December 17, 2004, they presented a recommendation to the Health Minister on future measures for working hour issues (Takeno 2006, 25).

The recommendation stated that as human resources are Japan's foundation, with the rapidly declining birthrate and aging population alongside a diversification of workers' attitudes and needs, in order to maintain a sustainable economic society it is imperative that workers, as its bearer, be able to fully motivate and realize their potential throughout their careers. It was also noted that an environment should be developed in the future where all workers can maintain proper mental and physical health, flexibly manage the time required for family, community activities, self-improvement, and working hours, and fully motivate and realize their potential in a state of both physical and mental fulfillment during each stage of their career. It was argued that the fundamental direction of the amendment should be to maintain the basic characteristics of an act focused on a commitment to promoting the voluntary efforts of labor and management, while also progressing from an act endeavoring to achieve a goal of shorter working hours to one establishing working hours and other factors in the workplace by first taking into account a worker's health and lifestyle and reflecting various work styles (Takeno 2006, 25).

It was also discussed that "1,800 hours of annual total hours actually worked" is not a suitable goal in light of the current situation. The recommendation also stated that in setting a goal for the future, when laying down new guidelines based on the amendment, it is necessary to individually examine the necessity and details pertaining to each issue, including the regulation of long working hours and promoting the use of annual paid leave (Takeno 2006, 26).

The history of the bill's presentation through its approval is similar to the path described in 2.3.3.

4.2. Contents of the Amendment

(1) Amendment of the Title

To progress from an act endeavoring to achieve a goal of less working hours to one determining working hours and other factors in the workplace by first taking into account a worker's health and lifestyle and reflecting various work

styles, the title was change from the Act on Temporary Measures Concerning the Promotion of the Reduction of Working Hours to the Act on Special Measures Concerning the Improvement of the Establishment of Working Hours, and provisions for the purpose and definition were amended. Accordingly, instead of an interim act to promote concentrated efforts to achieve a goal prior to a deadline, it has become as a permanent act to promote continuous efforts by labor and management (Title and Re: Article 1).

(2) Guidelines for Improving the Establishment of Working Hours

Instead of the government's plan to promote shorter working hours, the Health Minister is now providing employers with guidelines for an appropriate method of improving the establishment of employees' working hours (Re: Article 4, Paragraph 1).

(3) A System for Implementation in the Workplace

Since the Committee for the Promotion of the Reduction of Working Hours based on the Act on Temporary Measures Concerning the Promotion of the Reduction of Working Hours enjoyed some success, it was decided that, even after the amendment, further efforts should be made to develop any necessary systems such as establishing the Committee for Improving the Establishment of Working Hours to present an opinion to employers by investigating and examining measures for improving working hours through individual labor and management negotiations and taking into consideration the workers' health and lifestyle. It was also determined that the labor and management agreement could be replaced by applying the Special Provisions on Labour Standards Act (Re: Article 6 and Article 7, Paragraph 1).

In order to promote improvement for the establishment of working hours through labor and management negotiations in the workplace without the Committee for Improving the Establishment of Working Hours, should a health committee that is established based on the Industrial Safety and Health Act meet certain requirements, it could then be regarded as a replacement for the Committee for Improving the Establishment of Working Hours and its resolutions would take the place of a labor-management agreement (Re: Article 7, Paragraph 2).

(4) Others

Formerly, grants would be provided through a designated corporation, the Support Center for Reducing Working Hours, as a support measure for employers who endeavored to shorten working hours. This system, however,

was abolished in lieu of following public service corporation reforms (Re: the existing Chapter 5 and 6) (Takeno 2006, 26; Obata 2007, 39).

5. Conclusion

All items in the amendment are vital and reflect the reality of workers' diversified lives. Some of the items promote voluntary efforts by employers, and the amendment strives, through its precise implementation, to secure the safety and health of workers and to realize a fulfilling work style with an optimal balance of work and private life. It is the author's sound desire that the amendment be accurately understood, and that employers, workers, and administrations cooperate and actively make efforts to meet that end.

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