
Introduction

The Labor Contract Act of 2007 and Other Legislative Developments

The year 2007 witnessed several developments in Japanese labor legislation, most notable being the enactment of the Labor Contract Act. This Spring 2009 issue includes five articles that cover these developments.

In Japan, the term labor contract (*rodo-keiyaku*) does not mean a collective bargaining agreement; rather, it refers to the individual contract of hire between an employer and employee. It was in fact called an employment contract (*koyo-keiyaku*) under the Civil Code of 1896; however, for some reason the Labor Standards Act and other post-war labor laws chose a different name when they addressed it. These laws left many aspects of the contract untouched, and as such there existed a complicated set of legal rules including basic rules of employment by the Civil Code, provisions of the Labor Standards Act and others modifying the Civil Code rules, and judicially-made special rules on such matters as dismissal, discipline, transfer, work rules, and so forth. Calls for a general law integrating and clarifying the rules on labor contracts have become markedly stronger in recent years, the culmination of this being the 2007 legislation. However, the Labor Contract Act is by no means without criticism. The provisions are limited in scope and hardly ambitious in content (apart from the incorporation of an established but controversial judicial doctrine on the change of work rules). Still, the adoption of the Labor Contract Act itself represented an important step in the history of Japanese labor legislation. In the first article (*The Enactment of the Labor Contract Act: Its Significance and Future Issues*), Yamakawa presents a thoughtful analysis of the Act, including its background, significance, points of interpretation, and future directions.

In addition to the Labor Contract Act, there were also substantial revisions of existing laws carried out in 2007. Firstly, the Minimum Wage Act was totally overhauled; this was the first major revision of the Act in almost forty years. Minimum wages have become the center of attention in recent years, thanks to intensive media coverage of the “working poor”; this revision was a part of efforts to boost the function of the system. Secondly, the so-called Short-Time Work Act, which deals with part-time workers, was strengthened considerably. In addition to obliging employers to adopt a number of new duties for the improved treatment of part-time workers, the revised Act introduced the prohibition of “discrimination” against short-time workers who are indistinguishable in certain aspects from full-time workers. Thirdly, the Employment Measure Act was amended to mandate employers, among others, to provide equal opportunity regardless of a worker’s age at the stage of recruitment and hiring. This is a step forward from the former duty-to-endeavor provision, and together with the above-mentioned provision of the Short-Time Work Act perhaps marks a new era of employment equality in Japan. These laws are explored respectively by Nakakubo (*A New Departure in the Japanese Minimum Wage Legislation*), Morozumi (*Balanced Treatment and Bans on Discrimination—Significance and Issues of the Revised Part-Time Work Act—*), and Sakuraba (*The Amendment of the Employment*

Measure Act: Japanese Anti-Age Discrimination Law).

Lastly, the article by Nakamura (*The Process of Formulating Policy in Labor Matters: Derailment? Or Transformation?*) focuses on the process leading up to such legislative actions. In the past, the contents of Japanese labor laws were essentially decided by the tripartite Labor Policy Council after it engaged in substantial deliberation and compromises. However, the Council was undermined by “regulatory reform” (deregulation) measures, which essentially bypassed it; there are signs of malfunction in the process and doubts have been raised as to legitimacy of the Council itself. The author examines the legislative process of the Labor Contract Act, and through this also offers insight into Japanese labor policies.

For the information of our readers, the issue of working hours was discussed along with labor contracts in the same subcommittee of the Labor Policy Council in 2006. The most controversial subject regarding working hours was whether to introduce a new system of white-collar exemption. The Council reported favorably, but the exemption proposal was met by such a strong criticism in early 2007 that the government dropped it from the bill to amend the Labor Standards Act. The bill, which contained relatively small changes for overtime premiums and annual paid leave, was deliberated in the Diet, in conjunction with the Labor Contract Bill and the Minimum Wage Amendment Bill; however, it was put back to the next session. The bill was finally passed by the Diet in December 2008, to be enforced from April 2010. This will be covered by a future issue of Japan Labor Review.

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