

Japan's Working Hours Legislation - 40 Hours per Week

Japan's working hours legislation is provided in the Labor Standards Act, which has been in effect since 1947. Because the shortening of working hours became a big policy issue in the latter half of the 1980s, the traditional 48-hour workweek set by the law was gradually shortened since 1988. Now, aside from the 44-hour weeks served by workers at commerce, motion picture and theatre, health and hygiene, and service and entertainment workplaces of fewer than 9 employees, the workweek across all industries and business sizes has become 40 hours long.

Flexible Working Hours System

On the other hand, the Labor Standards Act also prescribes a system of irregular working hours. Within this system are: a system of monthly variation, a system of annual variation, flexitime, and a free-style system of weekly variation. In the monthly and annual variation systems, the weekly scheduled working hours will be increased to over 40 hours for, respectively, a specified week(s) or specified month(s); all other weeks/months will be shorter. Therefore, this system can be applied to situations such as a manufacturing industry for which the exceptionally busy periods vary with season, and the corresponding clerical fields. For the annual variation system, it has been possible since April 1999 to plan scheduled working hours flexibly for a period greater than one month, but maximums have been set at 10 hours per day and 52 hours per week. Flexitime is a system allowing workers self-management over their comings and goings to and from the workplace during a one-month settlement period. The free-style system of weekly variation was designed for types of businesses such as retail shops, restaurants, and Japanese-style inns, where business may slow down greatly on certain days of the week. This system provides for advance changes (made by the end of the

previous week) in the scheduled working hours for a particular day or days, keeping the weekly scheduled hours at a fixed constant.

Furthermore, the Labor Standards Act also stipulates a de-facto working hours system. Firstly, in the case of pit work, the total time spent from the time the worker enters the underground workplace until he or she leaves it will, including the recess time, be considered as part of the working time. Secondly, it deals with a system for work which is "conducted outside of the official workplace without specific command or supervision provided and for which it is difficult to calculate the amount of time spent," and is targeted at work such as sales and reporting/information gathering. Thirdly it deals with what is so-called discretionary scheduling system. This consists of two parts: the "discretionary scheduling system for specialized work" that is aimed at specialized work such as research and development, computer programming, mass communication-related work such as editing, broadcast and film directing, as well as designing, and the "discretionary scheduling system for planning work" that is aimed at white-collar work involving such areas as planning and project development.

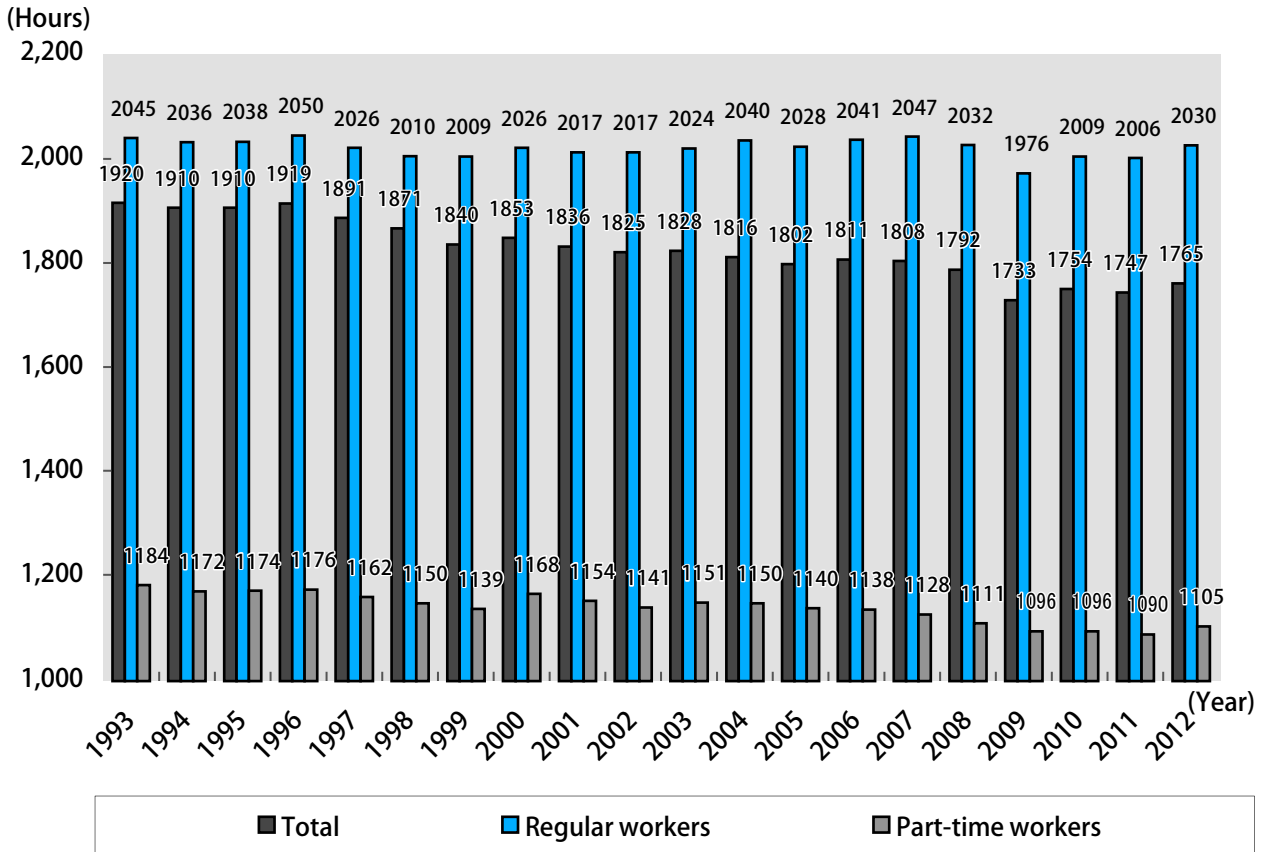
Annual Total of Hours Actually Worked

Whatever the system, however, the Japanese still work long hours. Figure III-16 shows the annual total of hours actually worked of regular workers and part-time workers. If we look at the "Total for regular and part-time workers," we can see that the annual total of hours actually worked has been steadily decreasing and fell below 1,800 hours from 2008. However, when reading these data, caution is required with regard to a couple of points. Firstly, the decrease in the annual total of hours actually worked since 2008 was brought about by the economic slump that followed the so-called "Lehman Shock". Secondly, if we look only at regular workers, who have long working hours, we can see that they have hardly

decreased at all for 20 years, and even in 2012 the figure was in excess of 2,000 hours. In other words, the contraction in overall working hours during this

time has been influenced by the increase in the number of part-time workers, who have shorter working hours.

Figure III-16 Annual Total of Hours Actually Worked by Regular and Part-time Workers



Source: Compiled from Ministry of Health, Labour and Welfare, *Monthly Labour Survey* (establishments with five or more workers)

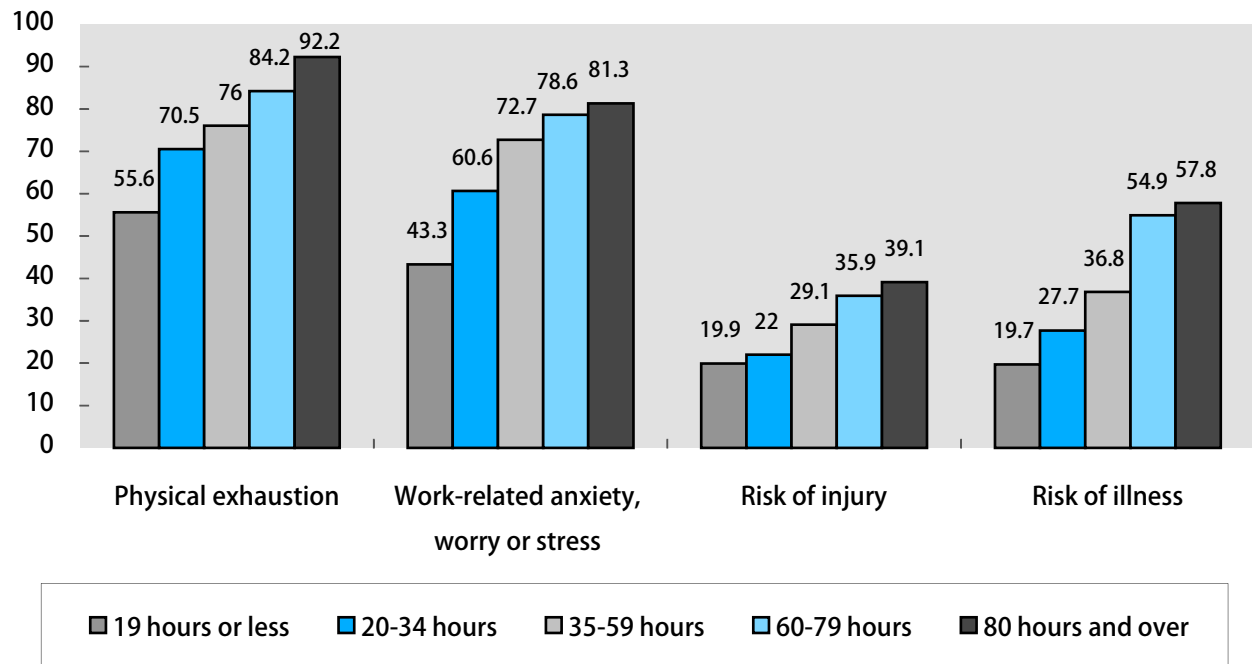
The Reality of Working Long Hours

The characteristics of the working hours of Japanese people are not simply that the total hours worked are long, but also that there are many people working exceedingly long hours. According to the Labor Force Survey carried out by the Ministry of Internal Affairs and Communications, even from the first decade of the 21st century, the proportion of those working long hours totaling at least 60 hours a week has been around 10% of all employees. Furthermore, if we restrict this to male employees in

their 30s, that proportion is in excess of 20% (Ministry of Internal Affairs and Communications, Employment Status Survey, 2007).

These people working long hours are easily exposed to physical exhaustion, mental stress, and the danger of injury or illness. According to a questionnaire carried out by the JILPT in 2010, one can clearly see that the longer the hours worked by a person in a week, the easier it is for them to be exposed to stress and health risks as a result.

Figure III-17 Relationship between Weekly Working Hours, Stress and Health Risks (%)



Source: The Japan Institute for Labour Policy and Training, *General Survey of the Actual Employment Situation of Japanese People (2010)*

Notes: 1) These figures focus on all workers (including those other than employees).

2) The % figures are totals for those responding "Very much feel" and "Somewhat feel".

Annual Paid Leave

What is effective in reducing working hours is taking annual paid leave. Table III-18 looks at the number of days of annual paid leave granted, the number of days taken, and the acquisition rate with these as the denominator and numerator. The Labor Standards Act prescribes that 10 days of annual paid leave shall be granted to those with a work attendance rate of at least 80% after six months of continued service, with 20 days being granted to those who have reached six and a half years of continued service. But unfortunately the average number of holidays taken throughout Japan in 2012 was 9.0. So, in actuality, many paid leave days are not used up. There is a variety of factors behind this such as that company

personnel management do not presume that all the holidays will be used, and that workers are often too busy with work to use holidays.

Various measures need to be devised in order to increase the take-up rate of annual paid leave. One of these is a system of scheduled annual paid leave. A scheduled annual paid leave system is a mechanism that involves annual paid leave being used up simultaneously or in turn in the workplace, based on an agreement between management and labor. Even looking at Table III-18, we can see that in companies that have introduced a scheduled annual paid leave system, the annual paid leave take-up rate is around 5% higher in comparison to companies that have not introduced this system.

Table III-18 Days of Annual Leave Given and Taken and Percentage Consumed (2012)

	Total			With a scheduled annual leave system			No scheduled annual leave system		
	Days given (days)	Days taken (days)	Percentage consumed (%)	Days given (days)	Days taken (days)	Percentage consumed (%)	Days given (days)	Days taken (days)	Percentage consumed (%)
All sizes	18.3	9.0	49.3	19.3	10.2	52.9	17.9	8.6	47.9
1,000 employees or more	19.3	10.9	56.5	20.0	11.3	56.7	19.0	10.7	56.3
300-999 employees	18.3	8.6	47.1	18.3	9.1	49.9	18.3	8.5	46.1
100-299 employees	17.6	7.7	44.0	19.0	8.6	45.5	17.3	7.5	43.6
30-99 employees	17.1	7.2	42.2	18.0	8.5	47.6	17.0	7.0	41.3
Mining and quarrying of stone and gravel	18.4	10.4	56.7	18.3	9.7	52.7	18.4	10.5	57.1
Construction	18.3	6.9	37.7	18.1	7.1	39.1	18.3	6.8	37.2
Manufacturing	19.0	10.3	54.2	19.8	11.6	58.7	18.4	9.3	50.8
Electricity, gas, heat supply and water	19.6	14.4	73.6	19.5	10.3	52.9	19.6	14.7	75.1
Information and communication	18.8	11.4	60.9	19.5	12.7	65.5	18.6	11.0	59.5
Transport and postal activities	18.1	10.3	56.7	17.4	7.5	43.3	18.2	10.6	58.1
Wholesale and retail trade	17.9	6.4	35.8	19.0	7.3	38.4	17.6	6.1	34.8
Finance and insurance	19.8	9.6	48.4	20.1	9.3	46.5	19.6	9.7	49.3
Real estate and goods rental and leasing	17.6	7.4	42.2	17.8	8.4	47.0	17.6	7.3	41.6
Scientific research, professional and technical services	18.6	9.4	50.5	19.4	11.7	60.0	18.2	8.5	46.6
Accommodations, eating and drinking services	16.3	6.1	37.4	17.3	7.4	42.9	16.1	5.9	36.5
Living-related and personal services and amusement services	16.4	7.0	42.9	16.1	7.4	46.0	16.5	7.0	42.3
Education, learning support	16.9	6.8	40.0	17.3	7.5	43.2	16.9	6.7	39.7
Medical, health care and welfare	15.0	7.1	47.5	15.7	7.7	49.0	14.9	7.0	47.2
Services	16.9	8.5	50.3	18.5	9.1	49.1	16.5	8.3	50.6
2004	18.0	8.5	47.4						
2005	18.0	8.4	46.6						
2006	17.9	8.4	47.1						
2007	17.7	8.3	46.6						
2008	17.6	8.2	46.7						
2009	18.0	8.5	47.4						
2010	17.9	8.5	47.1						
2011	17.9	8.6	48.1						
2012	18.3	9.0	49.3						

Source: Ministry of Health, Labour and Welfare, *General Survey of Working Conditions*

Notes: 1) "Days given" does not include days carried over.

2) "Days taken" is the number of days actually taken during a year.

3) The percentage consumed is calculated as follows: total number of days taken / total number of days given x 100 (%)

4) Up to 2007, the survey targeted "Private enterprises with at least 30 permanent employees at Head Office", but from 2008 the scope was expanded to "Private enterprises with at least 30 permanent employees". As a result, the time-series data are not necessarily continuous.

Karoshi (Death from Overwork)

Finally, let us introduce two unwelcome Japanese terms related to working hours. One is “karoshi”. This can be translated broadly as death that occurs as a result of excessive work (involving such things as extremely long working hours or unnaturally high stress levels).

However it must be noted that it is extremely difficult to have such cases handled by the legal system if a causal association with the work is not proved. In the narrow sense, “karoshi” is defined as death caused by cerebrovascular disease or ischemic heart disease (e.g. cerebral infarction, subarachnoid hemorrhage, myocardial infarction, angina) resulting from excessive work, while death caused by mental disorders due to excessive work or unnaturally high stress levels is termed “*karojisatsu*” (suicide induced by overwork and work-related depression). Both of these are eligible for industrial accident compensation.

There is no doubting the fact that the principal factor behind the occurrence of “death from overwork” is exceptionally long working hours. Consequently, when determining the application of workers’ compensation, firstly, the question of whether the duties from immediately before the date of occurrence up to the previous day were excessive is looked at, and then consideration is given to the situation regarding duties up to a week before the date of occurrence. Furthermore, from 2001, consideration began to be given to whether or not there were excessive duties for a long period of time (whether more than 45 hours of work were done per month outside normal working hours for a period of 1-6 months before the date of occurrence, or whether more than 100 hours of work were done outside normal working hours for the month before the date of occurrence, with more than 80 hours of work being done outside normal working hours per month for a

period of 2-6 months before the date of occurrence).

According to figures released by the Ministry of Health, Labour and Welfare in June 2013, claims related to karoshi between FY2008 and FY2012 remain high at around 300 cases per year, while those for *karojisatsu* are trending at around 150 to 200 cases.

Burakku Kigyo (Sweatshops)

The other Japanese term, “*burakku kigyo*” (literally “black companies”), has gained currency in recent years, particularly among younger workers. Analysis of the frequency of use in the Asahi Shimbun (one of Japan’s leading national dailies) shows that this term was used 4 times up to 2010, 7 times in 2011, 22 times in 2012 and 51 times in the first half of 2013 alone (from the newspaper’s article search database).

Based on these newspaper articles, characteristics shared by these companies are that they pay low wages while forcing employees to work long hours and unpaid overtime, they give no annual paid leave, and many young workers quit working for them out of exhaustion. Behind this lies the reality that young people face a harsh employment climate.

In light of this, the Ministry of Health, Labour and Welfare has started a “Young Worker Support Company Declaration Project”. The purpose of this is to recognize and give publicity to small and medium enterprises (“Young Worker Support Companies”) that have established a certain system for labor management and advertise vacancies for full employees below 35. A condition for receiving this recognition is that the company discloses employment-related information including its “Record of overtime works in the previous financial year” and “Record of paid leave and childcare leave in the previous financial year”.