

KEY TOPIC

Government Decides “Action Plan for the Realization of Work Style Reform”

Relevant Laws to Be Amended Aimed at Overtime Limits and Equal Pay for Equal Work

At the 10th Meeting of the Council for the Realization of Work Style Reform (comprising union and industry representatives as well as experts, chaired by Prime Minister Shinzo Abe) on March 28th, Japan’s “Action Plan for the Realization of Work Style Reform” was approved. The Action Plan covers initiatives including measures to reduce working hours by introducing overtime regulation with penalties for violation, and the preparation of legislative rules and guidelines to ensure the effectiveness of equal pay for equal work. From now on, steps will be taken to amend relevant laws and draw up guidelines with a view to executing this plan, following deliberation by the Labor Policy Council, in line with the roadmap incorporated in the Action Plan.

Responding to this approval, Prime Minister Abe stressed the importance of the government’s role to be played, saying, “the approval of the Action Plan for the Realization of Work Style Reform is a historical step for reform to change work styles in Japan. However, at the same time, this action plan is no more than the first step. Whether it is equal pay for equal work or maximum hours of overtime work, the action plan will simply be pieces of paper and end up being a pie-in-the sky idea, unless we develop bills, submit them to the Diet, and moreover have them passed.”

“Collective action by the government, labor and management required”

In “the significance of Work Style Reform from the perspective of the working people,” the Action Plan opens with the assertion that, while four years of **Abenomics** (aggressive monetary policy, flexible fiscal policy, and growth strategy promoting private

investment: See **Box** on the next page) have brought huge achievements, the issues of declining birthrate, aging population, and stagnation in productivity improvement still remain. If we are to overcome these challenges, we need to “open the way to a bright future where all citizens will be dynamically engaged,” in which everyone is motivated and can demonstrate their abilities to the full.

To this end, the Action Plan again asserts that “the greatest challenge toward the revitalization of Japan’s economy is work style reform.” The significance of the Action Plan is described as being to “drastically reform our labor institution from the perspective of the working people and change our corporate culture and climate,” because “we have not been able to embark on a full-scale reform” until now.

The Action Plan then states that, with the employment environment now taking a positive turn, “it is necessary for the government, labor, and management to forge together and work collectively” on issues such as unreasonable gaps in the treatment of “regular” and “non-regular” workers, as well as long working hours that make it difficult to balance work with family life and lead to the declining birthrate.

Equal pay for equal work, and other improved working conditions for non-regular employees

Of the themes raised by the Action Plan, the first to be listed is preparation of legislative rules and guidelines to ensure realization of equal pay for equal work. “Draft Guidelines on Equal Pay for Equal Work,” previously announced in December, 2016, presented the basic idea as well as examples, both problematic and non-problematic, with regard to (1)ensuring equal and balanced treatment regarding

basic pay, regardless of employment forms, (2) ensuring balanced and fair treatment regarding various allowances, (3) ensuring balanced and fair treatment regarding welfare and educational training, and (4) working conditions of dispatched workers. In order to ensure the effectiveness of the Draft Guidelines, the Action Plan shows the directions for future amendments to the Part-time Workers Act, the Labor Contract Act, and the Worker Dispatching Act so that workers can get relief in legal disputes (by court judgments).

Specifically, steps will be taken to; (i) prepare rules which will be the grounds for court judgments, as present rules (the Labor Contract Act and the Worker Dispatching Act) has no regulations on employers regarding fair treatment for fixed-term workers; (ii) obligate employers to explain the terms and conditions to non-regular workers since the present rules do not compel employers to explain the difference in terms and conditions between part-time workers/fixed-term workers/dispatched workers and equivalent regular workers; (iii) operate the administrative ADR (Alternative Dispute Resolution) that workers requiring balanced/fair treatment can easily utilize without bearing the economic burdens when they resort to legal actions; and (iv) prepare laws for dispatched workers that obligate client companies (dispatch destinations) to give dispatching business operators the information on working conditions of workers at client companies. Based on the Action Plan, the government aims to enact related bills in an extraordinary session for the Diet convened to be this fall.

Reducing working hours by introducing an overtime cap with criminal penalties for violation

Meanwhile, following a request by Prime Minister Abe for discussion on specific measures designed to limit overtime work, JTUC-Rengo and the Japan Business Federation (Keidanren), which had been demanding labor-management talks at the highest level, reached an agreement on March 13th, as basically reflected in the Action Plan. Since labor and management did not reach an agreement on the limit per month, however, they accepted the prime minister's proposal and settled on "less than 100 hours of overtime work per month."



Abenomics

"Abenomics" is the economic policy of the Abe administration. It revolves around three central tenets proposed by Prime Minister Shinzo Abe after coming to power in 2012: (1) aggressive monetary policy, (2) flexible fiscal policy, and (3) a growth strategy to stimulate private investment. Of these, (1) involved quantitative easing to increase the volume of capital supply to financial markets, (2) was for public investment through fiscal spending, and (3) aimed to generate private sector demand through deregulation, etc. The Abe government wanted to overcome deflation and strengthen the economy with these three policies— "three arrows."

Then, in 2015, the government proposed three more policies for (a) "a strong economy that will create hope," (b) "support for child-rearing to create bigger dreams," and (c) "social security giving peace of mind." With these "three new arrows," Abenomics entered its second phase. The aim of these was to overcome an economic crisis while maintaining growth under the declining birthrate and population aging. Each policy (arrow) sets numerical targets, (a) aiming for GDP of 600 trillion yen, (b) a total fertility rate of 1.8%, and (c) measures to eliminate cases of job-quitting for long-term family care. The Abe administration aims to create "a society in which all citizens are dynamically engaged." "The Action Plan for the Realization of Work Style Reform" has been formulated as one aspect of that.

This box gives explanations for Japanese expressions which might be unfamiliar to foreign readers. Ko-to-ba means language, word, or term in Japanese.

With this agreement, the existing ordinance of the Minister of Health, Labour and Welfare was to be transformed into the rules in the Labor Standards Act. Firstly, the maximum hours of overtime work permitted over 40 hours per week will be 45 hours per month and 360 hours per year in principle, with criminal penalties imposed for violations other than certain special cases. Special exceptions are defined as cases in which there are temporary and special circumstances, where the maximum hours of overtime work are 720 hours per year (= 60 hours per month on average). This limit cannot be exceeded even when there is consensus between labor and management and a labor agreement has been concluded between them. Within this upper

limit of 720 hours overtime per year, moreover, a limit for temporary increases in the amount of work (which also cannot be exceeded) is also established. This limit is subject to the following conditions: (1) Average overtime in any 2-month, 3-month, 4-month, 5-month or 6-month period, including working on holidays, must be within 80 hours; (2) Overtime in any single month, including work on holidays, must be less than 100 hours; and (3) Since the maximum hours of overtime work permitted in principle are 45 hours per month and 360 hours per year, special exceptions that exceed these principles may only be applied up to six times (six months) a year so as not to exceed the limit for half a year.

Following deliberation by the Labor Policy Council, the details of the overtime cap are to be laid out in an amendment of the Labor Standards Act, and guidelines are to be stipulated in an extraordinary session of the Diet to be convened this fall.

Meanwhile, on legislation for the interval system between periods of work (an issue subject to strong demand from the unions), a revision of the Act on Special Measures for Improvement of Working Hours Arrangements will oblige companies (as a “duty to endeavor”) to make efforts to ensure a certain period of break between the finish of work on one day and the start of work on the following day. To promote the spread of this system, an expert study group including representatives of both labor and management will be established.

On a separate issue, as well as increasing the rigor of working hour management, a strengthening of measures to prevent workplace bullying and harassment will be mooted in discussions attended by both labor and management, with a view to fostering good human relations. Government goals will also be revised, including study on setting new goals for mental health measures within a policy outline based on the Act on Promotion of Measures for *Karoshi* (death caused by overwork), etc. Prevention.

Treatment of jobs currently regarded as exempt

Specific jobs regarded as exempt from application of the ordinance on limit of overwork under the existing system are to be treated as follows. “automobile driving work,” in which trading practices with shippers and others place constraints on work

styles, and “construction work,” which is easily affected by the weather, will be subject to a period of grace for the first five years after the enforcement date of the revised Act. After the five-year-period, “automobile driving work” will be subject to an overtime limit of 960 hours per year (= an average of 80 hours per month), and the construction industry will also observe the general rules.

For medical practitioners, meanwhile, application will be deferred for five years after the introduction of overtime regulations with penalties. A discussion forum attended by the medical community will be established, aiming to draw conclusions on ideal regulations and measures to shorten working hours within a target period of two years from now. The Medical Practitioners’ Act imposes an obligation to respond to requests for treatment, with the stipulation that “no medical practitioner who provides medical treatment shall refuse any request for examination or treatment without just cause.” This profession is therefore unusual in that emergency cases may not be refused, and when there is only one practitioner, it may sometimes not be possible to examine all patients. For this reason, the Japan Medical Association and others requested exemptions for medical practitioners, in that “limitation could cause confusion at the medical front in the community.”

Research and development of new technologies and new products are to be exempted from application after clarifying areas subject to regulation, so as not to exceed the scope of the present system. This presupposes an obligation to effectively ensure workers’ health, such as giving access to personal guidance by doctors and granting substitute days off.

In addition to the above, other topics covered by the Action Plan include “treatment of other issues such as unexpected disasters,” “promoting sector-specific efforts such as improvements in transaction terms,” “enhancement of supervision over head offices of companies” and “support for self-realization of workers with motivation and abilities” (such as creating a sophisticated professional system and revising the discretionary working system for management-related work).

Renewal of guidelines for telework and measures for reconciling medical treatment with work

Also, measures for following (1)-(3) were incorporated under “Creating an environment to facilitate flexible work styles” in the Action Plan: (1) renewal of guidelines for employment-type telework and support for its introduction, (2) renewal of guidelines for non-employment-type telework and support for workers, and (3) establishing guidelines aimed at promoting side jobs and multiple jobs. Again, under “Creating an environment facilitating human resource development and other empowerment for women and young people,” efforts will be made to (1) enhance support for re-learning by individuals, such as recurrent education for women, (2) promote diverse empowerment of women (visualization of company information regarding empowerment of women), and (3) support empowerment of the “employment ice-age (early 1990s to early 2000s) generation” and young people, as well as creating an environment for them.

Apart from steps to achieve a reconciliation of medical treatment and work (establishing a new triangular support system for patients with disease, etc.), new initiatives will be launched to; create an educational environment in which anyone has a chance to learn (establishment of a new grant-type scholarship system); promote employment of elderly people (such as preparing an environment to extend

continuous employment); and accept foreign workers (positive acceptance of foreign human resources with high-level skills and knowledge). Regarding balance between childcare, nursing care and work, the Action Plan includes efforts to enhance support measures for balancing child-rearing, family care, and work. Also, it emphasizes a need to promote employment support to meet the requirements and potentials of disabled people. Finally, to support career changes or reemployment to industries with a large capacity to absorb employment, the measures cited are (1) formulation of guidelines to support companies accepting workers who change jobs and expansion of opportunities for mid-career employment, and (2) visualization of vocational ability and workplace information with a view to expanding career-change opportunities.

As a “Roadmap toward the future of 10 years ahead” this Action Plan presents specific response measures along a fixed timeline, in linkage with other government programs.

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NEWS

The 2017 *Shunto*, Wage Rise in SMEs and Non-Regular Employment

Changes in Negotiations Led by Pacesetters

The 2017 *Shunto* (See **Box** on the next page) came to a climax when Japan’s major corporations all issued their responses to union demands on

March 15th. Most major corporations of the automobile, electronics and other metals industries that traditionally set the benchmark for wage hikes