

## NEWS

### Work Style Reform Bill Enacted

#### Discussions Underway at the Council on the Contents of Specific Procedures

“The Work Style Reform Bill,”<sup>1</sup> the government’s highest-priority task for the 196th session of the Diet, was enacted on June 29, 2018. It was passed by the upper house with votes from a majority of lawmakers in the ruling Liberal Democratic Party (LDP), its coalition partner Komeito, Nippon Ishin no Kai and other opposition parties.

The bill is a comprehensive legal package with proposed amendments to a total of eight laws including the Labor Standards Act (LSA) and the Industrial Safety and Health Act (ISHA).

Under the amended LSA, the legal limit on overtime working hours will be capped at 45 hours per month and 360 hours per year in principle, with penalties stipulated for employers that violate the regulations.

The establishment of a “highly professional” work system was a contentious point. This targets workers in specialist professions, who will be eligible for payment based on performance rather than work hours. On June 28, the day before the vote, the Committee on Health, Labour and Welfare (a standing committee of the upper house) requested mechanisms for thorough supervision and guidance of employers that come under the system. A 47-point supplementary resolution,<sup>2</sup> which passed with a majority of votes from five parties including the LDP, Komeito, the National Democratic Party, and the Constitutional Democratic Party of Japan, accompanied the voting on the bill itself.

#### Outline of Work Style Reform Bill

In a policy speech on January 22, 2018, Prime Minister Shinzo Abe referred to the passage of the Work Style Reform Bill as one of the Diet’s most important tasks.

The bill bundles together amendments to eight laws: Employment Measures Act (EMA), LSA, Working Hours Arrangement Improvement Act,<sup>3</sup> ISHA, Pneumoconiosis Act, Part-Time Work Act,<sup>4</sup> Labor Contracts Act (LCA), and Worker Dispatching Act (WDA)<sup>5</sup> (see Table 1). The amendments have three main focus areas.

The first is that the EMA will be amended to state clearly the national government’s basic stance regarding work style reform. The government will use this as the basis for establishing a “basic policy” for comprehensively and continuously pursuing reforms in the future. To promote the efforts of SMEs, a provision was inserted prescribing an obligation to the local governments to take steps to establish collaborative frameworks, such as councils composed of regional stakeholders. This partial revision of the bill was made during deliberations in the lower house.

The second area of focus addressed correcting the culture of long working hours and realizing diverse, flexible working styles. Central to this is a revision of the systems governing working hours. Key amendments to the LSA and ISHA were as follows.

1. The Act on Arrangement of Relevant Acts on Promoting the Work Style Reform (Cabinet Public Relations Office’s provisional translation). [https://japan.kantei.go.jp/98\\_abe/actions/201806/\\_00069.html](https://japan.kantei.go.jp/98_abe/actions/201806/_00069.html)

2. A supplementary resolution indicates items to be noted when implementing a law. After a bill is adopted, a supplementary resolution may be attached to the draft legislation. Although it does not constitute an amendment to the main bill itself, inclusion in a supplementary resolution is equivalent to giving instructions to future sessions of the Diet for enforcement of the law. It has political impact, but is not legally binding. (Source: Website of House of Councilors, the National Diet of Japan)

3. The Act on Special Measures for Improvement of Working Hours Arrangements.

4. The Act on Improvement, etc. of Employment Management for Part-Time Workers.

5. The Act for Securing the Proper Operation of Worker Dispatching Undertakings and Improved Working Conditions for Dispatched Workers.

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An upper limit for overtime working hours was set at 45 hours a month and 360 hours a year in principle, and this cannot be exceeded unless there are temporary, special circumstances. Even if there is an agreement between labor and management regarding such circumstances, overtime working hours must be limited to no more than 720 hours a year and 100 hours a month including work on holidays. The monthly average is to be no more than 80 hours including work on holidays, with a basic limit of 45 hours that is not to be exceeded six times (for six months) in a year (Figure 1). Exemptions were established for certain occupations such as vehicle drivers, construction workers, and medical doctors, with a grace period attached. An exemption was also set for workers engaged in R&D, on the condition of an interview with and guidance from a medical doctor.

With regard to the extra wage pay rate for overtime work exceeding 60 hours a month, exemptions for SMEs will be abolished. The rate for SMEs is currently 25% or higher, and will be raised to 50% or higher, the same rate as that for large enterprises.

Employers will be obliged to let workers take at least five days of annual paid leave. For workers who have been granted 10 days or more of annual paid leave, employers have to designate a period for leave after accommodating worker's wishes for when to take leave.

The establishment of the highly professional work system was the biggest point of contention between the ruling and opposition parties during debates on the bill. Measures to ensure the health of the relevant workers will be strengthened. Provisions were added to the bill at the lower house to enable these workers to withdraw their consent to come under the system.

The ISHA will be amended to ensure the effectiveness of measures to maintain workers' health. The amendment stipulates that employers must monitor actual working hours using methods prescribed by ministerial ordinance.

Also, the Working Hours Arrangement Improvement Act will be amended to promote the adoption of a work-interval system. Employers are

required to make efforts to ensure a certain number of hours of rest period between the ending time of work on a given day and the starting time of work on the next day.

The ISHA and Pneumoconiosis Act will be amended. Enterprises will be required to provide information necessary for industrial physicians to properly perform their medical services, with the aim of strengthening the functions of industrial physicians and occupational health.

The bill's third main area of focus was the requirement that workers receive appropriate treatment and compensation regardless of their forms of employment. The Part-Time Work Act, LCA, and WDA will be amended with provisions to eliminate unreasonable disparities in treatment.

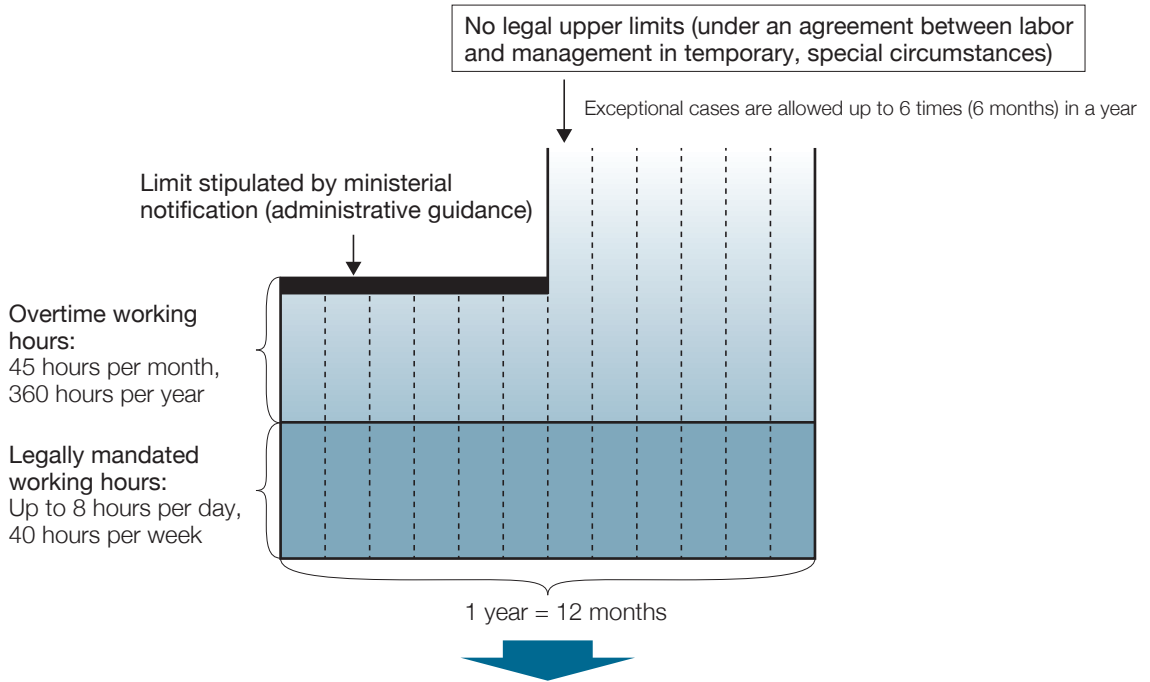
In particular, regarding the prohibition on unreasonable differences in treatment between regular workers and part-time workers or fixed-term contract workers within the same enterprise, the amended act clarifies how to judge whether or not treatment is unreasonable. It states that, considering the content of workers' duties and the responsibility accompanying the duties, the extent of changes in the content of duties and work locations, and other circumstances, employers must consider the rationality of each item of the working conditions individually taking into account the nature and purpose of the items including base salary and bonus as well as other allowances. This provision will be transferred from LCA to the Act on Improvement, etc. of Employment Management for Part-Time and Fixed Term Contract Workers (the current Part-Time Work Act).

Regarding dispatched workers, employers will be obliged to ensure either treatment equal or equivalent to that of workers regularly employed at the client enterprise, or treatment dictated by labor-management agreements that satisfy certain requirements. Basic provisions for guidelines governing these matters are to be drawn up.

In addition, it will be mandatory for employers upon request to provide part-time workers, fixed-term workers, and dispatched workers with explanations of the content of treatment disparities between these

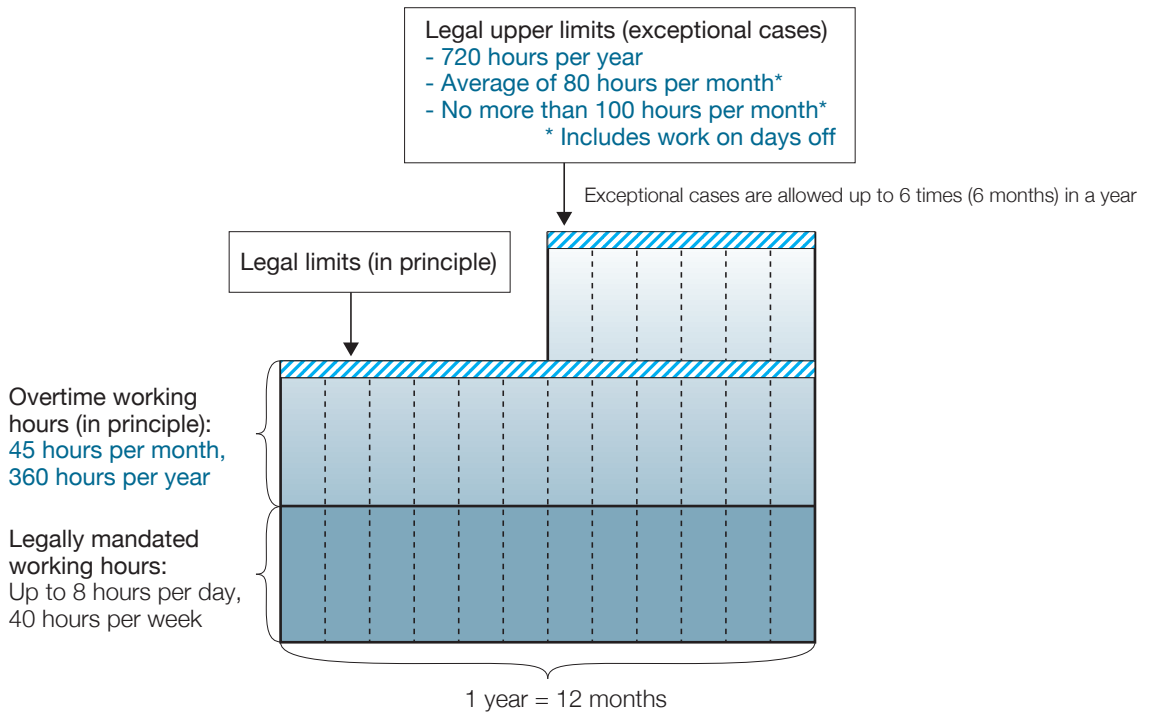
Currently

No legally mandated limits on overtime working hours (only administrative guidance applies)



From April 2019 onward (application to SMEs is from April 2020)

Upper limits on overtime working hours are mandated by law, and overtime exceeding this limit will be prohibited.



Source: Ministry of Health, Labour and Welfare's leaflet on the Work Style Reform with slight changes to the explanatory text by JILPT, 2018.

Figure 1. Legal limit on overtime working hours (amendment to the Labor Standards Act)

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workers and regular workers, and the reasons for them. The bill provides for measures to ensure these explanations through administrative enforcement and ADR (Alternative Dispute Resolution).

### **Expansion of scope of discretionary work system deleted from the bill**

The date of enforcement and items for amendment were partially revised. They were originally based on a summary of the bill reviewed by the Labor Policy Council (an advisory panel to the Minister of Health, Labour and Welfare) in September 2017, which they found to be “generally appropriate.” A Cabinet decision was made on April 6, 2018. Deliberations in the lower house began on April 27 and continued until the bill was passed on May 31. Deliberations in the upper house started on June 4.

In late April 2018, before Diet deliberations began, it was discovered that there were flawed data in the Comprehensive Survey on Working Hours, etc., which was conducted in April through June 2013 by the Ministry of Health, Labour and Welfare. Prime Minister Abe announced on February 28 that the provisions on expanding the scope of the discretionary work system would be deleted from the bill and handled separately.

After the government gave up on submitting this section of the bill to the ongoing Diet session, the opposition insisted that the highly professional work system would promote *karōshi* (death from overwork) because it was to exclude some high-income professions from regulations on working hours. They took a firm stand against the system. There was a gulf between the ruling and opposition parties on this issue.

The law passed by the Diet contains many items, including the amendment to WDA, that still require the formulation of practical implementation procedures such as ministerial ordinances and guidelines. Going forward, these matters will be discussed among academics representing public interests, labor, and management in sub-committees and working groups of the Labor Policy Council.

In the summary of the bill approved by the Labor Policy Council, the date of enactment was originally

set as April 2019 in principle, with a one-year grace period for SMEs regarding the provisions on equal pay for equal work (with the exception of those involving WDA). Under the law passed after Diet deliberations, the enforcement date was modified. The revised provisions concerning limits on overtime working hours go into effect in April 2019 as planned for large enterprises, and one year later, in April 2020, for SMEs. The revised provisions on equal pay for equal work take effect in April 2020 for large enterprises and April 2021 for SMEs. For both large enterprises and SMEs, the provisions on the application of the highly professional work system will go into effect in April 2020.

### **Government, labor, and management statements on passage of the bill**

Upon passage of the bill, Prime Minister Abe remarked, “These are the first major reforms [to labor laws] in 70 years. We will rectify the problems of working long hours, and eradicate the expression ‘non-regular employment’ from Japan. We have enabled people to work even while raising children or providing nursing care through the passage of this legislation that makes diverse ways of working possible. I intend to continue to take the perspective of working people as I press forward with reforms. Of course, various viewpoints on this legislation were expressed in the Diet. I will bear those in mind as I advance reforms putting myself in workers’ shoes.”

JTUC-RENGO (Japanese Trade Union Confederation) General Secretary Yasunobu Aihara issued a statement on June 29. He praised “the realization of several measures JTUC-RENGO has been requesting, including limits on overtime working hours with penalties for violators, the abolition of measures exempting SMEs from paying higher wages for overtime exceeding 60 hours, and equal pay for equal work so as to eliminate unreasonable disparities among people of different employment types.” However, he criticized the highly professional work system, calling it “extremely regrettable that the bill passed without eliminating this provision for a system that

disregards the work-hours regulations and threatens to encourage excessively long working hours.” He noted that the Constitutional Democratic Party of Japan and the National Democratic Party, which have a cooperative relationship, submitted a counter-proposal to the lower house with removal of the highly professional work system as a key point. Their proposal, he said, “digs into problems not clarified in the bill, and contains much material that will provide fodder for future Labor Policy Council discussions.” Aihara also expressed admiration for the efforts that led to “adoption of a 47-point supplementary resolution by the upper house Committee on Health, Labour and Welfare, which will heighten the effectiveness of the bill.”

Chairman Hiroaki Nakanishi of Keidanren (the Japan Business Federation) issued a statement on June 29. “Development of work environments where

workers can exercise their creative potential, and rectification of the culture of working long hours are urgent issues,” he commented. “We have high regard for the Work Style Reform Bill that has passed under the leadership of Prime Minister Abe. It is unfortunate that expanded scope of the discretionary work system was removed from this bill, and we call for swift resubmission of a bill containing this provision. We in the business community will also accelerate our efforts to reform working styles so as to improve motivation and productivity and generate innovation.”

**Related articles from back numbers:**

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.” *Japan Labor Issues*. Vol. 1, No. 1, September 2017. <https://www.jil.go.jp/english/jli/documents/2017/001-01.pdf>

Table 1. Key aspects of the Work Style Reform Bill

Name of law	Details of amendments	Date of enforcement (for SMEs)
Labor Standards Act	<b>Enhancement of flextime system</b> · Period of adjustable working hours (“calculation period”) will be extended from 1 month to 3 months.	April 1, 2019
	<b>Introduction of legal limits on overtime working hours</b> · In principle, the upper limit for overtime working hours will be capped at 45 hours per month and 360 hours per year. · Even if there is an agreement between labor and management on an extraordinary need due to temporary special circumstances, overtime working hours will be capped at 720 hours a year and 100 hours a month, with a monthly average of no more than 80 hours (including work on days off). · The basic limit of 45 hours is not to be exceeded 6 times (for six months) in a year.	April 1, 2019 (April 2020)
	<b>Raise in extra wage rate for overtime work exceeding 60 hours per month</b> · SMEs will have to pay the same extra pay rate (50%) as large enterprises.	April 1, 2023
	<b>Ensuring use of a certain number of days of annual paid leave</b> · For workers who are granted 10 days or more of annual paid leave, employers will be obliged to let the workers take at least 5 days of annual paid leave during a period designated by the employer, having accommodated the worker’s wishes regarding when to take leave. (This can exclude days off that have been taken during a period requested by the worker or during a period pre-determined by the employer.)	April 1, 2019
	<b>Establishment of a “highly professional” work system</b> · Workers who have a clear scope of duties with specialized skills and a definite annual income above a certain level (currently expected to be 10.75 million yen or more a year) will be excluded from regulations regarding working hours, holidays, extra wages for late-night work, etc., on conditions including that measures to ensure health are taken, the worker personally consents to the system, and a resolution of the Labor-Management Committee is passed. · These workers can withdraw their consent to be covered by the system.	April 1, 2019

Table 1. Continued

Name of law	Details of amendments	Date of enforcement (for SMEs)
Employment Measures Act (The name of the Act is to be changed <sup>6</sup> )	<b>Comprehensive and continuous promotion of Work Style Reform</b> · The government will establish a basic policy on comprehensive promotion of labor-related measures.	July 6, 2018
Industrial Safety and Health Act	<b>Strengthening functions of industrial physicians and occupational health, and monitoring working hours</b> · Eight new items will be added, including requiring enterprises to provide information necessary for industrial physicians to properly perform their duties. · With the exception of workers covered by the highly professional work system, employers must monitor employees' working hours using methods specified by an ordinance of the Ministry of Health, Labour and Welfare. · If workers covered by the highly professional worker system spend more than a designated length of time in the workplace, the employer is obliged to ensure that the workers are interviewed by and receive guidance from a medical doctor.	April 1, 2019
Pneumoconiosis Act	<b>Provisions for handling information on the physical and mental condition of workers</b>	April 1, 2019
Working Hours Arrangement Improvement Act	<b>Encouraging enterprises to adopt a work-interval system</b> · Employers must endeavor to ensure a certain number of hours of rest period between the ending time of work on a given day and the starting time of work on the next day.	April 1, 2019
Labor Contracts Act	<b>Revision of laws and regulations to eliminate unreasonable disparities in treatment</b> · Provisions for balanced treatment ("prohibition of disparities judged to be unreasonable") will be transferred to the Part-Time Work Act.	April 1, 2020 (April 1, 2021)
Part-Time Work Act (The name of the Act is to be changed <sup>7</sup> )	<b>Revision of laws for equal and balanced treatment, and obligation to explain treatment</b> · Unreasonable disparities between regular and non-regular workers (part-time workers, fixed-term contract workers) are to be prohibited. · At the request of non-regular workers, employers will be obliged to provide explanations of the content of treatment disparities between these workers and regular workers, and the reasons for them.	April 1, 2020 (April 1, 2021)
Worker Dispatching Act	<b>Revision of laws for equal and balanced treatment, and obligation to explain treatment</b> · Worker dispatching business operators will have to ensure either equal and balanced treatment with workers regularly employed at the client enterprise, or treatment meeting certain requirements determined by a labor-management agreement at the worker dispatching business operator. · Clients seeking to hire dispatched workers will be obliged to provide dispatching business operators with information regarding the treatment of dispatched workers.	April 1, 2020

6. The name of the Employment Measures Act is to be changed to the "Act on Comprehensive Promotion of Labor Policies, Stabilization of Employment and Improvement of Workplace Environments."

7. The name of the Act on Improvement, etc. of Employment Management for Part-Time Workers (the Part-Time Work Act) is to be changed to the "Act on Improvement, etc. of Employment Management for Part-Time and Fixed-Term Contract Workers."