

Labor Laws Revisions Related to Work Style Reform

Aiming at realizing work style reform of individuals, the proposal for several revisions to labor related laws was passed by the Diet in July 2018. We summarize below the major revisions to the Labor Standards Act (LSA), which should be carefully considered by HR persons to ensure labor management is compliant with the law.

■ Change of upper limit of overtime hours

Under LSA, an employer is required not to have employees work more than 8 hours per day and 40 hours per week. Only when employer and employee enter into a labor-management agreement for overtime work (the so-called 36-Agreement), the employer may request employees to work overtime or on holidays. There had been guidelines by the government on the limits of overtime work, but these were not enforceable. The amended LSA stipulates provisions on the upper limits; 45 hours per month, 360 hours per year (or 720 hours per year on special occasions) in principle. Violation of the provisions will be penalized. (Effective April 1, 2019 for larger companies and April 1, 2020 for small/medium sized companies)

■ Cessation of special treatment for small/medium sized companies regarding overtime premium rate

Overtime work in excess of 60 hours per month should be paid at a higher premium rate of 50% or more, while normal premium rates are 25% for overtime work after net 8 hours per day and 35% for holiday work. Currently, small/medium sized companies are exempt from application of this rule. This special treatment will be abolished. (Effective April 1, 2023)

■ Introduction of new work hour rules for highly professional employees

LSA stipulates provisions concerning working hours, holidays, overtime pay, etc., for ensuring the minimum standards of employees' working conditions. Under the new rules, an employer will not need to apply those provisions to highly professional employees engaged in certain jobs with specialized skills and earning high-level salaries (currently expected to be 10,750,000 yen or more per year). In order to prevent those employees from longer work hours, the amended SLA includes the provisions that the employer require an employee to take 104 days off per year and prepare measures for ensuring the safety and health of employees. Operational details including scope of applicable jobs, salary limits and procedures have not been finalized. (Effective April 1, 2019)

■ Flexibility enhancement of Flextime System

The flextime system is one of the modified working hour systems prepared by LSA. Under the flextime system, an employee can determine his/her starting/ending time of each work day as long as he/she works the prescribed working hours of the day. The actual working hours are calculated for a one-month period and such (called a settlement period), hours in excess of the prescribed working hours of that settlement period are paid as a premium wage. Under the new rules, the settlement period can be extended up to 3 months. In order to implement the settlement period over one month, the employer and a representative employee must enter the labor-management agreement and file it with the labor authorities. (Effective April 1, 2019)

■ Planned use of annual paid vacation

Employees are granted 10 days paid vacation after 6 months employment, then number of days will be increased every year up to 20 days per year. This is a minimum entitlement under LSA. For 2017, the usage rate of paid vacation was 49.4% according to the government database. The amended LSA requires the employer to have employees take 5 days in the designated dates ensuring the use of granted vacation. This rule will apply for those who are granted at least 10 days entitlement per year. (Effective April 1, 2019)