



## Labor

### Japan's Action Plan for the Realization of Work Style Reform

Prime Minister Shinzo Abe recently held 10 meetings of the "Council for the Realization of Work Style Reform," to discuss reforms to Japan's labor law system with experts from both the management and labor sides. At the 10th meeting of the Council for the Realization of Work Style Reform, held on March 28, 2017, the "Action Plan for the Realization of Work Style Reform" ("Action Plan") was approved. The Action Plan covers a broad range of topics including wage increases, the promotion of side jobs, and re-employment support for women. This newsletter introduces two of the most noteworthy elements of the Action Plan, which are (i) the introduction of the Overtime Work Regulation with Punishment and (ii) equal pay for equal work.

**Introduction of the Overtime Work Regulation with Punishment.** Under the existing Labor Standards Act, in practice employers are able to have their employees work overtime without limit by entering into a labor-management agreement stipulated by Article 36 of the Labor Standards Act with special conditions for exceptional circumstances.

The Action Plan indicates the direction of legal reform by introducing the Overtime Work Regulation with Punishment, with the purpose of correcting the practice of long working hours. The Action Plan calls for, in principle, limiting overtime to 45 hours per month and 360 hours per year; in the event of a violation, the employer will be punished. There will be exceptions where employers may have their employees go above the overtime limit, in the case of temporary, special circumstances. However, in no case shall overtime exceed 720 hours per year (a monthly average of 60 hours). Further, within the 720-hour annual overtime limit: (i) overtime including work during holidays shall not exceed a monthly average of 80 hours for any span between two and six months; (ii) monthly overtime including work during holidays shall be less than 100 hours; and (iii) exceptions to the above-mentioned rule limiting monthly overtime to 45 hours shall apply no more than six times per year.

It is expected that the regulation described above will not wholly apply to, and/or special regulations will be developed for, certain types of businesses, such the business of driving automobiles, the construction business, or the business of doctors.

**Equal Pay for Equal Work.** On December 20, 2016, the Japanese government issued the "Draft Guidelines for Equal Pay for Equal Work" ("Draft Guidelines"), which provide its interpretation as to which differences in working conditions between regular employees and non-regular employees are considered reasonable (please see the [February 2017 issue](#) for more information). The Action Plan, in order to ensure the effectiveness of the Draft Guidelines, addresses the following: (i) the development of the laws on which employees will rely, such as the rules for equal treatment of regular and non-regular employees, in the event that they seek a judicial ruling; (ii) making it an obligation for employers to provide an explanation of working conditions, including an explanation of the nature of the working conditions of non-regular employees and the reasons for differences between the working conditions of non-regular and regular employees; (iii) the development of an administrative alternative dispute resolution process; and (iv) the development of laws relating to dispatched workers, including imposing an obligation on companies hiring dispatched employees to provide the dispatching agencies with information regarding the working conditions of its regular employees, such as their payment.

The Action Plan is not legally binding. However, businesses should pay close attention to legal reform developments related to the Action Plan, since, in the event that existing laws are amended in accordance with the Action Plan, businesses may be forced to substantially reconsider their work rules and labor-management agreements.

## International Trade

### Bill to Partially Amend the Foreign Exchange and Foreign Trade Act Submitted to the Diet

On March 3, 2017, the Japanese government submitted to the Diet a bill to partially amend the Foreign Exchange and Foreign Trade Act ("Amendment Bill"). The Amendment Bill would strengthen criminal penalties for violations of regulations regarding the export or import of goods or the transfer of technologies (for example, the maximum fine that may be imposed on a legal entity would be increased to JPY1 billion). In addition, the Amendment Bill would introduce a prior notification requirement for certain acquisitions by a foreign investor of the shares of a Japanese unlisted company from another foreign investor. Such acquisitions are not subject to any prior notification requirement under the current Act. If enacted, this amendment would affect importers and exporters and would also affect a foreign company (including a Japanese subsidiary of a foreign company) intending to make an investment in a Japanese company with sensitive technologies. Individuals or companies that would likely be affected by the Amendment Bill should pay close attention to debate about it in the Diet.

## Privacy

### Commencement of the Opt-out Notification in Connection with the Enforcement of the Amended Personal Information Protection Act

Prior to the enforcement of the Amended Personal Information Protection Act ("Amended Act") (please see the [October 2015 issue](#) for more information) beginning on May 30, 2017, the Personal Information Protection Commission began accepting notifications required for the provision of personal data to a third party by the "opt-out" method on March 1, 2017. The opt-out method is a method of providing personal data to a third party without obtaining the consent of the person concerned on the condition that the provision of information ceases upon the person's request. Under the Amended Act, the filing of a notification in advance with the Personal Information Protection Commission is required for the provision of personal data to a third party by the opt-out method. In addition, some guidelines and policies for certain specific fields (such as finance-related fields) have been published recently in preparation for the enforcement of the Amended Act. Companies should confirm whether they need to file an opt-out notification and should review their internal handling of personal information and relevant internal rules in light of the applicable guidelines.

## Intellectual Property

### First Registration of Trademarks Consisting Only of Colors

The Japan Patent Office ("JPO") has been accepting applications for certain new types of trademarks, including those consisting of sounds and colors, since April 1, 2015, in accordance with the Trademark Act as amended in 2014. On February 28, 2017, for the first time the JPO decided to allow the registration of two trademarks consisting only of colors. The trademarks allowed to be registered were those for the storefront sign of a convenience store chain and the logo colors of certain eraser products. Both of them are well-known logos among Japanese consumers. It would be beneficial for companies that use marks with distinctive colors as part of their business to consider registering these kind of trademarks as a way of enhancing the strength of their brands.

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