



JAPAN LEGAL UPDATE

Labor & Employment

Japan's Supreme Court Issues First Decisions Interpreting Article 20 of the Labor Contract Act

On June 1, 2018, in the *Hamakyorex* (please see the [September 2016 issue](#)) and *Nagasawa-Unyu* decisions (please see the [November 2016 issue](#)), the Supreme Court (Second Petty Bench) interpreted Article 20 of the Labor Contract Act prohibiting unreasonable differences in the working conditions of fixed-term employees (non-regular employees) and indefinite-term employees (regular employees). These are the first Supreme Court decisions interpreting Article 20, which is of great interest considering the government's promotion of work style reform (please see the [May 2018 issue](#)).

In the *Hamakyorex* decision, the Court held that unreasonable differences in the working conditions of fixed-term employees and indefinite-term employees violate Article 20 when these differences arise because of the fixed or indefinite nature of the employment. It also found that the differing working conditions of fixed-term employees that violate Article 20 are invalid.

Further, the Court upheld the lower court in its finding that the employer was liable where there were unreasonable differences in the payment/nonpayment and in the amounts of four types of allowances, including commuting allowances.

In addition, the Court found the nonpayment to non-regular employees of perfect-attendance allowances, which were paid to regular employees, to be unreasonable, since the need to ensure the attendance of employees does not differ based on the employees' duties. In contrast, the Court found that it was not unreasonable to pay housing allowances only to regular employees because regular employees are subject to transfers requiring relocations that increase housing costs.

The *Nagasawa-Unyu* decision involved differences in the working conditions between those of contract drivers rehired as fixed-term employees after reaching retirement age and those of regular employees, with both groups having the same duties. The Court held that the fact that the fixed-term employees were rehired after reaching retirement age could be taken into consideration in deciding the reasonableness of the differences in working conditions. Further, the Court found to be unreasonable differences in perfect-attendance allowances and overtime allowances (calculated based on such perfect-attendance allowances). In contrast, the Court held that the nonpayment of performance-based pay and duty allowances to the contract drivers was not unreasonable, on the grounds that the base salaries of the contract drivers were higher when the drivers were rehired than when they were at retirement age.

These decisions will serve as important guidelines for businesses that are considering the working conditions of their fixed-term employees.

Projects & Infrastructure

Cabinet Approves and Submits to the Diet the Bill to Implement Integrated Resorts

On March 27, 2018, the Bill to Arrange Specified Integrated Resort Facilities Areas was submitted to the Diet. Pursuant to the Act Concerning Promotion of Development of Specified Integrated Resort Facilities Areas, discussed in the [December 2016/January 2017 issue](#), the Bill will allow for the implementation of

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legislative measures necessary to promote the development of areas where specified integrated resort facilities ("Integrated Resorts") will be established. The main contents of the Bill are as follows:

Regulations Concerning the Establishment of Integrated Resorts. Integrated Resorts are defined as integrated facilities mainly consisting of casino facilities, as well as facilities for international conferences, exhibitions, Japanese cultural performances, the provision of domestic sightseeing services, and accommodations. Integrated Resorts may be established upon the approval of area development plans jointly prepared by local governments and private businesses (up to a maximum of three plans for all of Japan) by the Minister of Land, Infrastructure and Transport.

Regulations for Casino Businesses. In addition to the approval of an area development plan, casino businesses require a license (with a renewable three-year term) issued by the Casino Management Committee, which will be established as an external bureau of the Cabinet. Furthermore, in order to become the main shareholder of a casino business, the operator of a business that manages and makes use of casino facilities, the land owner of an Integrated Resort area, or a manufacturer of casino-related equipment, a license, permission, or approval from the Casino Management Committee is required.

Entrance Fees and Taxes. Excluding foreign citizens who do not reside in Japan, no individual may enter a casino facility more than three times in a seven-day period or more than 10 times in a 28-day period, and each such individual is subject to a 3,000 JPY entrance fee imposed by the national government and the local government (for a total of 6,000 JPY) every 24 hours. The casino business must collect these entrance fees and transfer the funds to the national and local governments. In addition, each month, the casino business must pay a tax of 15 percent of gross gaming revenue to both the national and local governments and must pay certain Casino Management Committee fees to the national government.

The Bill will be implemented within three years from the date of promulgation. Since the Bill establishes a specific framework for casino regulations in Japan, Diet deliberations will need to occur.

Intellectual Property

Partial Revision of the Unfair Competition Prevention Act and the Copyright Act

The Act of Partial Revision of the Unfair Competition Prevention Act, Etc. was enacted on May 23, 2018, and promulgated on May 30, 2018. The Act of Partial Revision of the Copyright Act was enacted on May 18, 2018, and promulgated on May 25, 2018. For details, please see the [April 2018 issue](#) of this newsletter.

Corporate

Partial Revision of the Commercial Code and the Act on International Carriage of Goods by Sea

The Act of Partial Revision of the Commercial Code and the Act on International Carriage of Goods by Sea was enacted on May 18, 2018, and promulgated on May 25, 2018. The Act will update the provisions in the Commercial Code pertaining to transportation businesses and maritime commerce, which have not been substantially revised since the introduction of the Code in 1899. While the Act was originally submitted to the Diet in October 2016 and was later abandoned, the newly enacted Act is in substantially the same form as when it was originally submitted. For details, please see the [November 2016 issue](#) of this newsletter. The Act will come into force no later than one year from the date of promulgation on a date to be specified by a Cabinet Order.

Life Sciences

Enforcement of the Next Generation Medical Infrastructure Act

The Act Regarding Anonymized Medical Data to Contribute to R&D in the Medical Field ("Next Generation Medical Infrastructure Act") came into force on May 11, 2018. For details, please see the [July 2017 issue](#) of this newsletter.

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