

Workforce Management Newsletter

Issue 51, February 2020

In brief

1. The required measures to be taken by April 2020 in accordance with the laws on the workstyle reform are explained.
2. In accordance with the revised Worker Dispatching Law, which will come into effect on April 1, 2020, the requirement measures to be taken by dispatched employers are explained.
3. With regard to corporations, etc. with a stated capital exceeding JPY 100 million, electronic applications for a part of social insurance-related procedures will become mandatory in April 2020.
4. Three years is expected to become the period of extinctive prescription for the right to claim wages.

In detail

1. The required measures to be taken by April 1, 2020 in accordance with the laws on the workstyle reform

- (1) Revision of the upper limit on overtime work (for small and medium-sized enterprise, hereinafter "SMEs")

The maximum limit on overtime work stated in Agreement 36 has been applicable to employers that do not fall under the category of SMEs, since April 1, 2019. For SMEs, the maximum limit on overtime work stated in Agreement 36 begins to take effect on April 1, 2020.

Details of the regulation Revision of overtime work limit is also introduced in newsletters Issue 37 (published October 2017) and Issue 45 (published February 2019) in Japanese.

<https://www.pwc.com/jp/ja/knowledge/news/tax-cas/wmn-vol37.html>

<https://www.pwc.com/jp/ja/knowledge/news/tax-cas/wmn-vol45.html>

- (2) Enforcement of the Act on Improvement etc. of Employment Management for Part-Time and Fixed-Term Workers (Equal Pay for Equal Work) (except SMEs)

To eliminate unreasonable differences in treatment between regular employees (non-fixed-term full-time workers) and non-regular employees in the same company, the Act of Improvement etc. of Employment Management for Part-Time and Fixed-Term Workers will be enforced. For SMEs, the Act will be applicable from April 1, 2021.

Not only part-time workers but also fixed-term employees are included in the scope of the Act, and the name of the Act will be changed from the so-called "Part-Time Workers' Law." In addition, the enforcement regulations and the guidelines for Equal Payment for Equal Work will come into force.

Please refer to the Ministry of Health, Labour and Welfare (hereinafter "MHLW") website for details of the Equal Payment for Equal Work for Part-Time and Fixed-Term Employees.

<https://www.mhlw.go.jp/stf/seisakunitsuite/bunya/0000144972.html>

The outline of the Part-Time and Fixed-Term Employment Law is also introduced in newsletter Issue 38 (published in December 2017) in Japanese.

<https://www.pwc.com/jp/ja/knowledge/news/tax-cas/wmn-vol38.html>

※ Definition of SMEs

The definition of SMEs in (1) and (2) above is as shown in the table below.

Industry	The amount of stated capital or Total amount of investment	Or	Number of workers regularly employed
Retail	JPY 50 million or less	Or	50 or less
Service	JPY 50 million or less	Or	100 or less
Wholesale	JPY 100 million or less	Or	100 or less
Other	JPY 300 million or less	Or	300 or less

- (3) Enforcement of the amendment Worker Dispatching Law (Equal Payment for Equal Work for dispatched workers) (all companies)

Please see 2. below for details.

2. Enforcement of the Amended Workers Dispatching Law (Equal Payment for Equal Work for Dispatched Workers)

(1) Contents

Under the Amended Worker Dispatching Law, dispatching business operators are required to ensure the treatment of dispatched workers through one of the following methods: i. the Equal and Balanced at Dispatched Employer Method or ii. the Labor-Management Agreement Method. The effective date of the amendment Worker Dispatching Law is April 1, 2020, regardless of the size of the dispatching company or the dispatched employer.

Please note that not only the contract of workers dispatching that was concluded on or after April 1, 2020, but also the contract that extends beyond that date will be subject to the amended law from that date.

- i. **Equal and Balanced at Dispatched Employer Method**
A method of achieving equal treatment and balanced treatment with "regular workers" (comparable workers) of the dispatched employer
- ii. **Labor-Management Agreement Method**
A method that requires a dispatched employer to conclude a labor-management agreement that meets certain requirements with a labor union organized by a majority of workers or a majority representative of workers, and determining the treatment of the dispatched workers based on said labor-management agreement

	Equal and Balanced at Dispatched Employer Method	Labor-Management Agreement Method	
Covered treatment	All treatment (Base salary, allowance, bonus, benefit, education and training, safety management, etc.)	<ul style="list-style-type: none"> Wages (base salary, allowance, bonus, etc.) Other than wages (benefit, education and training, safety management, etc.) (However, among the treatment other than wages, (a) and (b) below shall be excluded from the scope of the labor-management agreement because it is to be provided by the dispatched employer, and equality and balance with the regular workers of the dispatched employer shall be sought after.) (a) Education and training conducted by the dispatched employer (b) Certain welfare facilities in the dispatched employer (food service facilities, rest rooms, changing rooms) among the welfare facilities of the client	
Comparison target	Comparison with the regular workers of the dispatched employer (see (2)i)	Wage	Compared with regular workers who have the same level of competence/experience to engage in the same type of work in areas including workplaces
		Other than Wage	[To be conducted by dispatching employer] Comparison with regular workers of dispatching employers (excluding dispatched workers) [To be conducted by dispatched employer (a, b) above] Comparison with the regular workers of the dispatched employer
Standard of Judgement of Equal Treatment and Balanced Treatment	In each treatment among the regular worker of the dispatching employer <ul style="list-style-type: none"> No discriminatory treatment in cases where job description, and scope of change for job descriptions and assignment are the same (equal treatment). No "unreasonable difference in treatment" in consideration of job description, scope of change in job description and assignment, and other circumstances (balanced treatment) 	Wage	<ul style="list-style-type: none"> Be equal or better than the average amount of regular workers Need to have pay rise, etc. in accordance with the improvement of competences, willingness, etc.
		Other than Wage	No "unreasonable difference in treatment" in the dispatching and dispatched employers with regard to the matters to be conducted by both parties in accordance with the above

Source: PwC Labor and Social Security Attorney Corporation partially edited MHLW's Check and Consider Manual for Eliminating Unreasonable Treatment: Response to the Amended Worker Dispatching Act'.

(2) Actions to be taken by the dispatching employer (not required in Labor-Management Agreement Method)

I. Select workers to be compared

Workers to be compared will be selected in the following order of priority.

- i. Regular workers whose job descriptions and the scope of change in job descriptions and assignment are the same
- ii. Regular workers with the same job descriptions
- iii. Regular workers whose job descriptions or degree of responsibility are the same
- iv. Regular workers whose scope of change in job descriptions and assignment are the same
- v. Part-time and fixed-term workers equivalent to i-iv
(In accordance with Act on Improvement etc. of Employment Management for Part-Time and Fixed-Term Workers, it is necessary to ensure balanced treatment with regular workers of the dispatched employer.)
- vi. Newly hired workers assumed to be engaging in the same job as a dispatched worker (it is necessary that appropriate treatment is secured with the regular worker of the dispatched employer)

II. Provide information on the treatment, etc. of comparable workers to dispatching employers

Before concluding a contract of worker dispatching, it is necessary to provide the following information to the dispatching employer.

[In the case of the Equal and Balanced at Dispatched Employer Method]

Following items concerning the comparable workers

- Job descriptions, scope of change in job descriptions and assignment, and types of employment
- Reasons for selection as comparable workers
- Detail of treatment (in the case where there is no major treatment such as pay rise or bonus, the said effect)
- Nature and objective of treatment
- Considerations in determining treatment

[Labor-Management Agreement Method]

- Education and training to develop the competences to perform duties
- Use of cafeterias, rest rooms, and changing rooms

III. Education and Training

Through request from the dispatching employer, it is obligatory to provide the dispatched workers with education and training to develop the competences necessary to perform their duties.

IV. Benefits

It is obliged to grant access to welfare facilities (food service facilities, rest rooms and clothing rooms) used by employees of the dispatched employers. In addition, the dispatched employer is obliged to give consideration to provide dispatched workers the convenience of the shops, hospitals, clinics, baths, hair salons, day care center, libraries, lecture halls, recreation rooms, sports grounds, gymnasiums, recreation facilities, etc. that are installed and operated by the dispatched employer and are used by workers of the dispatched employers.

V. Provide information

Through request from the dispatching employer, it is obligatory to give consideration to providing necessary cooperation, such as providing information on the worker of the dispatched employer and performance status of the dispatched worker.

Please refer to the website of the MHLW below for details of "Equal payment for Equal Work for Dispatched Workers."

https://www.mhlw.go.jp/stf/seisakunitsuite/bunya/0000077386_00001.html

3. Obligation of Electronic Filing for Specified Corporations

For the following specified corporations (*), it will be obligatory to electronic file a part of procedures for social insurance (e.g., Notification of Acquiring Insured Qualification for Employment Insurance, Notification of Bonus Payment for Health Insurance and Employees' Pension Insurance, etc.) from the beginning of the fiscal year that commences from April 2020 for each corporation.

(*) Specified Corporations

- Corporations and Mutual Corporations (Insurance Business Act) with an amount of stated capital, investment, or contributions paid to Bank's Shareholdings Purchase Corporation exceeding JPY 100 million
- Investment Corporations (Investment Trust and Investment Corporation Act)
- Specific Purpose Company (Act on Securitization of Assets)

Please check the following website of the MHLW for details of "Obligation of Electronic Filing for Specified Corporations" in Japanese.

<https://www.mhlw.go.jp/content/000511981.pdf>

Revision of the Period of Extinctive Prescription for the Right to Claim Wages (Outline of the Bill for Partial Revision of the Labor Standards Law)

With the enforcement of the revised Civil Law in April 2020, reviewing of the period of extinctive prescription of the right to claim wages (excluding Retirement Allowances) is under consideration in the Outline of the Bill for Partial Revision of the Labor Standards Law. It may be extended to three years from the current two years as an interim measure, and may come into effect on April 1, 2020, depending on the status of future Diet deliberations.

Details of the "Outline for Partial Revision the Labor Standards Law" are available on the MHLW website in Japanese.

https://www.mhlw.go.jp/stf/newpage_08856.html

Let's talk

For more detailed information or information on individual projects, please contact the following:

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