

Revised Labour Standards Act

Ministry of Health, Labour and Welfare
2010

Revised Labour Standards Act

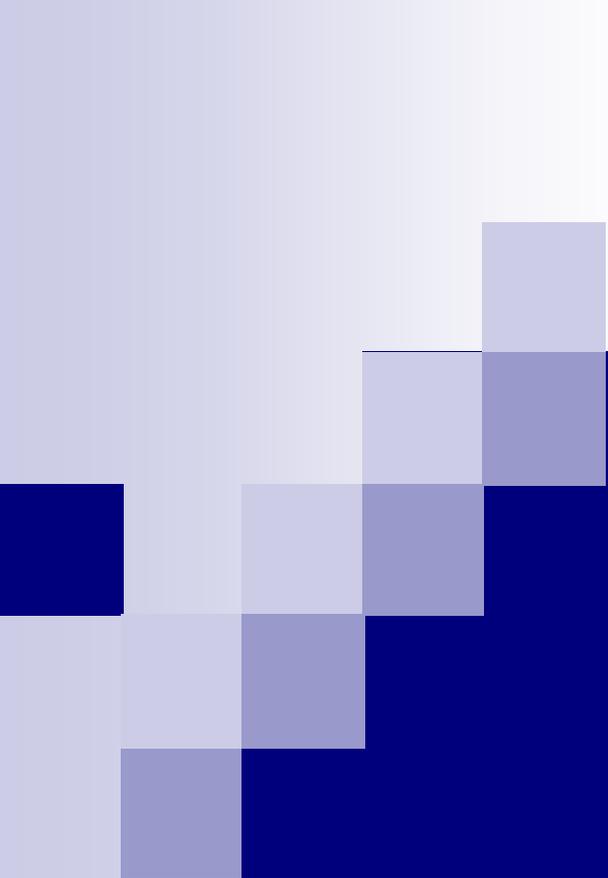
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Revised Labour Standards Act

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1. Background of the Revision

Purpose of the Revision

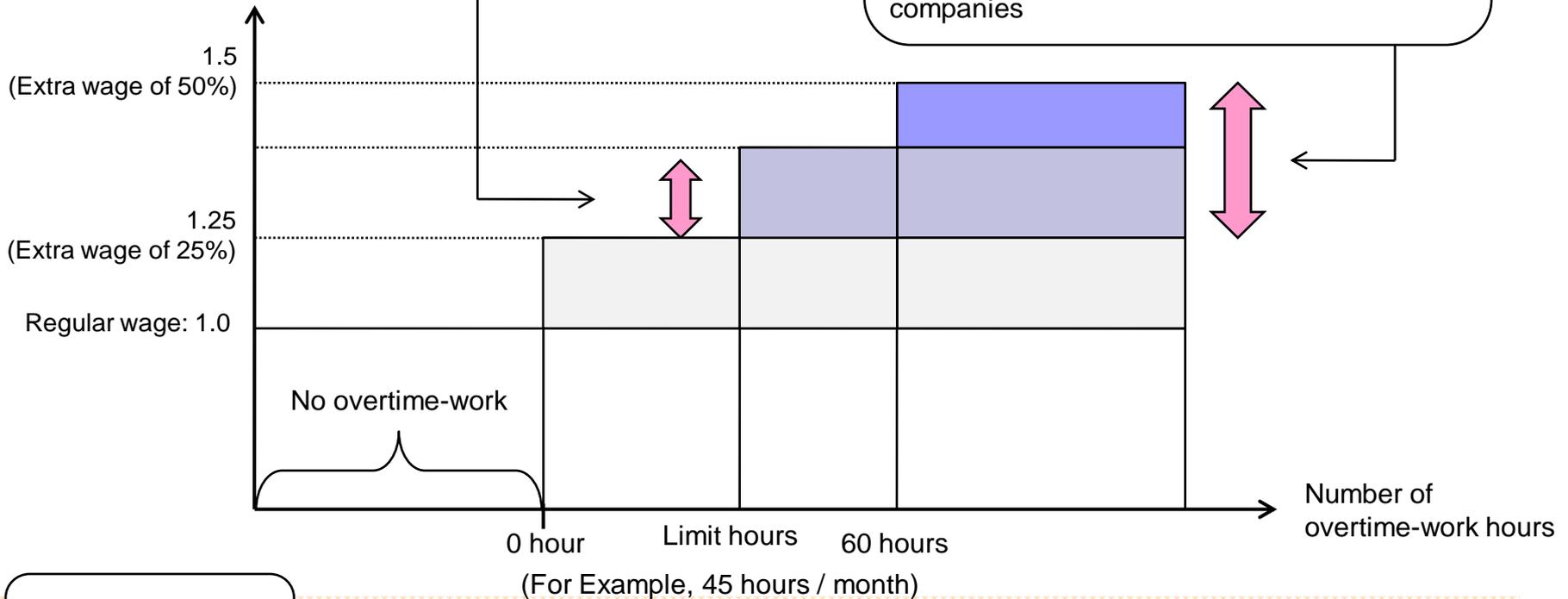
- Looking at the current situation of working hours, the percentage of workers working 60 hours per week or more stands at 9.2% of the total. Particularly, the percentage of male workers in their 30s in the child-raising generation stands at 18.0%. These figures show the percentage of workers who work long hours is high. (“Labour Force Survey” 2009, Ministry of Internal Affairs and Communications)
- Responding to this trend, the need to create a labour environment, where workers can work by securing time for their lives other than working while keeping their good health, has become an important issue.
- To this end, the Revised Labour Standards Act was approved with the aim of curbing long working hours, ensuring better health of the workers and also creating a society with a good work-life balance.
- Date of enforcement: April 1, 2010

Outline of the Revision

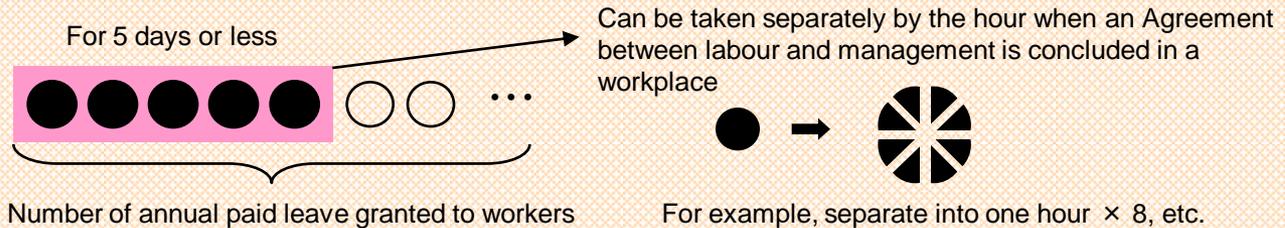
1. Related to the review of the Standards on the Limit of Overtime-Work
 (Curbing overtime work if longer than the limit hours)

2. Related to the raise of a legal extra wage pay rate

- 1) Raising an extra wage pay rate for overtime work exceeding 60 hours/ month
- 2) Compensatory leave
- 3) Grace is given for small and medium companies



3. Granting annual paid leave by the hour

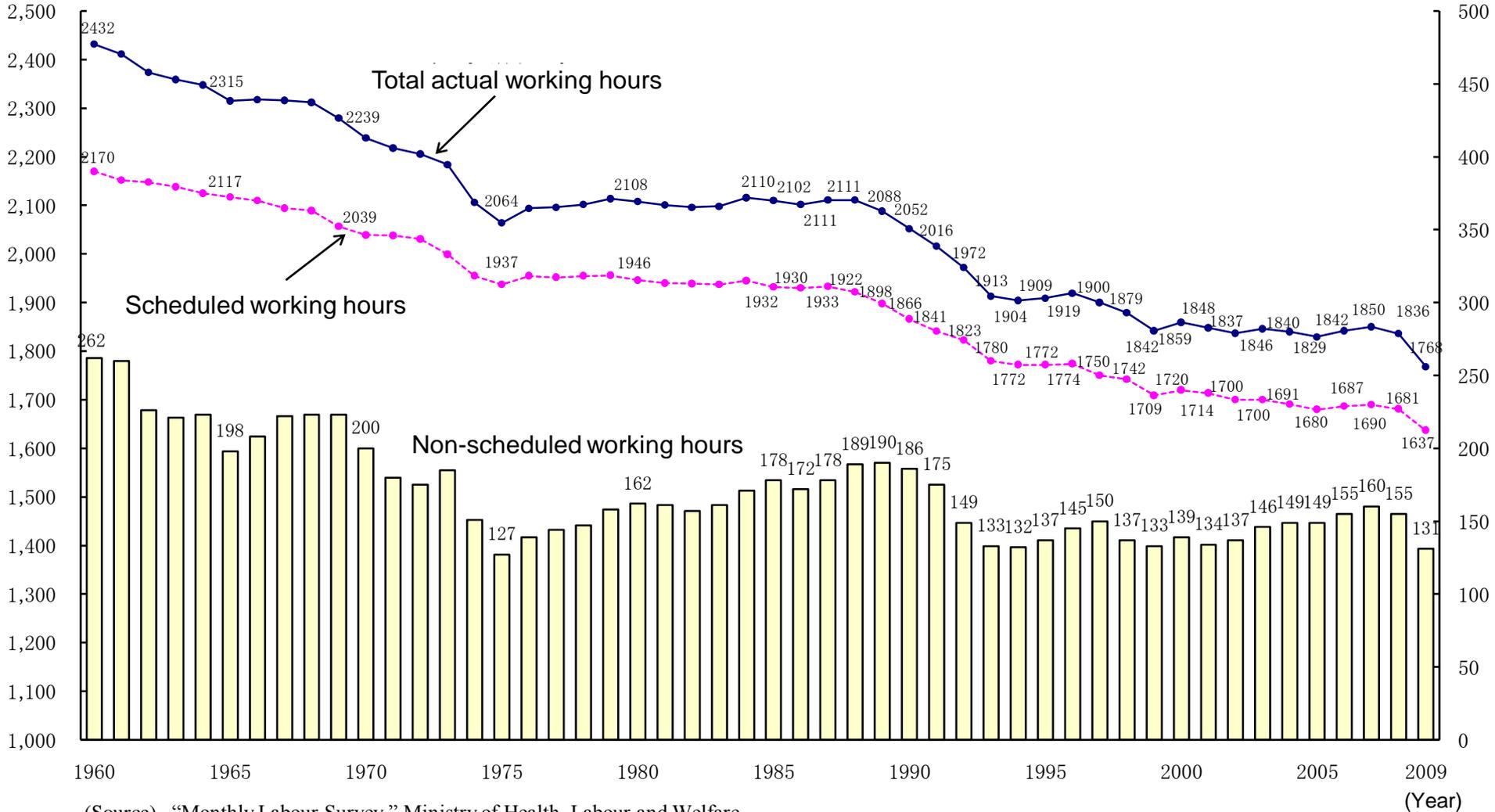


Trends in Average Total Annual Actual Working Hours (Calendar year)

(Workplaces with 30 workers or more)

(Total actual working hours: Hour)
(Scheduled working hours: Hour)

(Non-scheduled working hours: Hour)



(Source) "Monthly Labour Survey," Ministry of Health, Labour and Welfare

(Note) 1. Workplaces with 30 workers or more

2. Each figure is obtained by multiplying the monthly average figure by 12 and rounding off one decimal place

3. The non-scheduled working hours are obtained by subtracting the scheduled working hours from the total actual working hours

4. The figure in and before 1983 is obtained by totaling the monthly figure

Trends in Employees, etc. by Weekly Working Hours

○ While the percentage of employees working more than 60 hours per week is decreasing gradually, for males in their 30s (in the child-raising generation) it remains at a high level

| | 1993 | 2006 | 2007 | 2008 | 2009 |
|--------------------------------------------------------------------|---------------|---------------|---------------|---------------|---------------|
| Employees working less than 35 hours per week | 9.29 million | 12.05 million | 13.46 million | 14.07 million | 14.31 million |
| | 18.2% | 22.5% | 24.9% | 26.1% | 26.9% |
| Employees working 35 hours or more but less than 60 hours per week | 36.25 million | 35.53 million | 34.82 million | 34.37 million | 33.77 million |
| | 71.1% | 66.4% | 64.5% | 63.7% | 63.6% |
| Employees working more than 60 hours per week | 5.40 million | 5.80 million | 5.54 million | 5.37 million | 4.91 million |
| | 10.6% | 10.8% | 10.3% | 10.0% | 9.2% |
| Total | 50.99 million | 53.53 million | 53.98 million | 53.94 million | 53.13 million |

Male Employees in their 30s working more than 60 hours per week

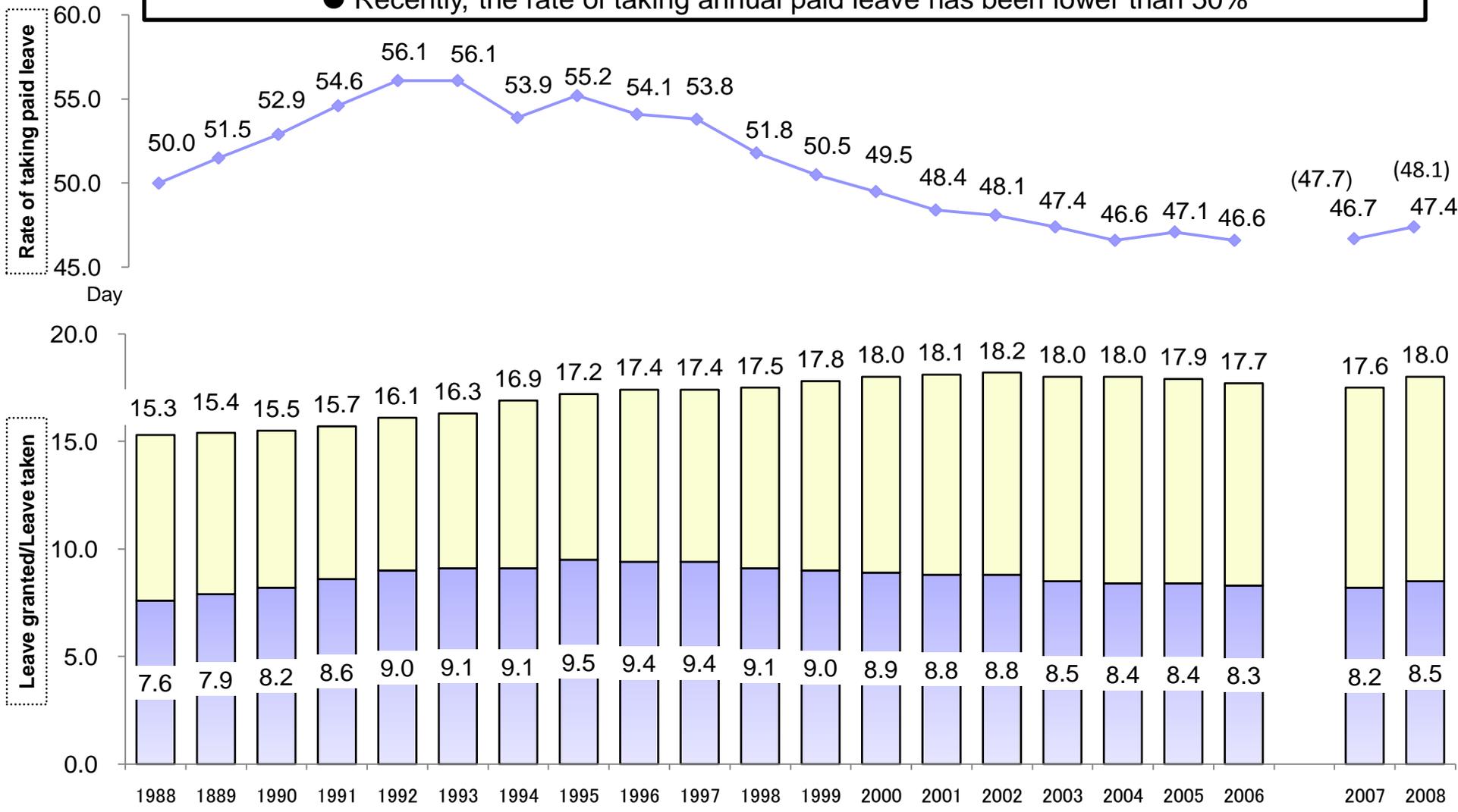
| | 1993 | 2006 | 2007 | 2008 | 2009 |
|-----------------------------------------------|--------------|--------------|--------------|--------------|-------------|
| Employees working more than 60 hours per week | 1.53 million | 1.88 million | 1.76 million | 1.72 million | 1.5 million |
| | 20.3% | 21.7% | 20.2% | 20.0% | 18.0% |

* Source: "Monthly Labour Survey," Ministry Health, Labour and Welfare

* The Table above is only for 'employees.' However, for male employees in their 30s, figures for "employees" are not available due to a statistic restriction. Accordingly, the figures are based on the number of employees including not only 'employees' but also 'self-employed' and 'family employees.'

Trends in the Rate of Taking Annual Paid Leave etc.

● Recently, the rate of taking annual paid leave has been lower than 50%



(Source) "General Survey on Working Conditions," Ministry Health, Labour and Welfare (The "General Survey on Wages and Working Hours System" has been used in and before 1999)

- (Note)
- 1) "Employees covered" are workers obtained by excluding "part-time workers" from "regular workers."
 - 2) "Paid leave granted" does not include carry-over days. "Rate of taking paid leave" = Total paid leave taken/Total paid leave granted × 100 (%)
 - 3) Object of survey in and before 2006: "Private companies with 30 regular workers or more at their head office"
→ Object of survey in 2007: "Private companies with 30 regular workers or more"
 - 4) (Reference) By using the survey method in and before 2006, average paid leave taken in 2007: 47.7%, and average paid leave taken in 2008: 48.1%



2. Overview of the Current Legal System

Overview of Legal System for Working Hours

Legal working hours (Article 32)

- An employer shall not have a worker work more than **40 hours** per week.
- An employer shall not have a worker work more than **8 hours** per day.

Legal holidays (Article 35)

- An employer shall provide to a worker at least one holiday per week (or at least four holidays during four weeks).

Overtime work and working on holidays (Article 36)

- When an employer has concluded a labour-management agreement either with a **labour union** organized by a majority of workers or a person representing a majority of workers and files such agreement with the Labour Standards Inspection Office, the employer may have workers work overtime or work on holidays.
- The Minister of Health, Labour and Welfare may establish **standards** (* Refer to the next page) on the limit of overtime work.
- The content of the labour-management agreement shall comply with a notice of limit standards.
- The Labour Standards Inspection Office may provide necessary advice and guidance concerning a notice of limit standards.

Extra wages for overtime work, working on holidays and late-night work (Article 37)

- When an employer has workers work overtime or work during late-night (from 10:00 p.m. to 5:00 a.m.), the employer shall pay extra wages at a rate of **25%** higher than regular wages.
- When an employer has a worker work on holidays, the employer shall pay extra wages at a rate of 35% higher than regular wages.

Notice of Limit Standards (1)

Notice of limit standards

After concluding an overtime work agreement (so called “36 Agreement”) and filing it with the Labour Standards Inspection Office, overtime work is allowed.



However, overtime work should originally be minimum necessary as extraordinary work.



With the aim of promoting the appropriate conclusion of an overtime-work agreement and reducing constant long hours of work, **the notice of limit standards** has been established, which **stipulates a limit of extendable working hours (limit hours) for a “fixed period” exceeding one day as set forth in the overtime-work agreement.**

- Labour and management must conform to the content of the Agreement to the Standards.
- The Director of the Labour Standards Inspection Office must provide to the labour and the management, necessary advice and guidance for the Standards.

| Fixed Period | Limit Hours |
|--------------|-------------|
| 1 week | 15 hours |
| 2 weeks | 27 hours |
| 4 weeks | 43 hours |
| 1 month | 45 hours |
| 2 months | 81 hours |
| 3 months | 120 hours |
| 1 year | 360 hours |

When defining extendable hours for the “fixed period,” definition should be based on both **(i) longer than 1 day but not exceeding 3 months** and **(ii) 1 year.**

Notice of Limit Standards (2)

Overtime-work agreement with special clauses

If a “**special occasion**” (limited only to an **extraordinary case***) where an employer has extraordinarily to have workers work longer than the limit hours is expected, an employer can treat the hours exceeding the limit hours as extended hours when concluding an **agreement with a special clause**.

* An “extraordinary case” refers to the case where an employer needs to have workers work temporarily and unexpectedly, and the duration of the “extraordinary case” will not be longer than half a year as a whole.

- The limit hours for a worker who is subject to the One-Year Variable Working Hours System within the applicable period of more than 3 months

| Fixed Period | Limit Hours |
|--------------|-------------|
| 1 week | 14 hours |
| 2 weeks | 25 hours |
| 4 weeks | 40 hours |
| 1 month | 42 hours |
| 2 months | 75 hours |
| 3 months | 110 hours |
| 1 year | 320 hours |



Standards on the Limit of Overtime Work

Standards on the Limit of Overtime Work (1998 Ministry of Labour Notification No. 154)

These are standards on such as the limit of the extension of working hours set forth in the Article 36 Agreement.

The labour and the management must ensure that the contents of Article 36 Agreement comply with the standards. (Article 36, paragraph 3 of the Labour Standards Act)

On April 1, 2010, the Revised Labour Standards Act was enforced, and the revision of the standards to curb overtime work exceeding the limit hours was enforced. (See the following pages for details.)

This leaflet compiles matters which must be observed in concluding Article 36 Agreement, and includes such as the contents of the above standards.

Please conclude the Article 36 Agreement appropriately by using this leaflet, and submit a notice of Agreement.

■ If employer wants workers work overtime or work on holidays, the Article 36 Agreement should be concluded.

- The Labour Standards Act sets forth the daily and weekly working hours and the number of holidays, but allows workers to work overtime exceeding the legal working hours and also work on legal holidays, on the condition that an Agreement on overtime work/working on holidays (so called the “36 Agreement”) is concluded under the provisions of Article 36 of the Labour Standards Act and the Agreement is filed with the Director of Labour Standards Inspection Office.

■ Overtime work/working on holidays should be of minimal necessity.

- However, the purpose of the Act is not to allow overtime work/working on holidays without a limit and overtime work/working on holidays should be of minimal necessity. Accordingly, with this in mind, the labour and management should carefully conclude the 36 Agreement.

■ Payment of extra wages

- Extra wages should be paid for overtime work/working on holidays. The extra pay rate of extra wages for overtime work is 25% or more (50% or more for overtime work exceeding 60 hours per month from April 1, 2010 based on the enforcement of the Revised Labour Standards Act (Small and medium companies are exempt from the application of the revised Act), and the extra pay rate of extra wages for work done on holidays is 35% or more.

■ Making notice on an Agreement on overtime work/working on holidays

- As with work rules and other various labour-management agreements, an employer should make notice to workers the Agreement on overtime work/working on holidays by displaying it in a place where it can be easily seen at all times, delivering it in writing, or through other methods.

- For laws and ordinances related to the Labour Standards Act, etc., please access the website of the Ministry of Health, Labour and Welfare (<http://www.mhlw.go.jp/>).

If you have any questions, please contact a neighboring Prefectural Labour Bureau/Labour Standards Inspection Office.



For people, for life, for the future

**Ministry of Health, Labour and Welfare/
Prefectural Labour Bureaus/
Labour Standards Inspection Offices**

Please check the following columns, conclude the 36 Agreement after ensuring that all critical information has been filled out, and then file the Agreement with the local Labour Standards Inspection Office in charge.
For items with a check mark, please re-confirm between labour and management.

Checkpoint 1

The 36 Agreement which meets legal requirements should be filed.

Necessary matters to be agreed on

Labour and management must agree on the following matters.

- Specific reasons that an employer needs to have workers work overtime
- Types of duties for which an employer needs to have workers work overtime
- Number of workers whom an employer needs to have work overtime
- Working hours which can be extended per day
- Working hours which can be extended for a fixed period exceeding one day
- Effective period (Even the shortest period is one year because of the Checkpoint 2 "Category of a fixed period")

Parties to the Agreement (Worker's side)

The Agreement should be concluded between an employer and a labour union if there is a labour union organized by a majority of the workers, or a person representing a majority of the workers if there is no labour union organized by a majority of the workers. However, a person representing a majority of the workers, if there is no labour union organized by a majority of workers should meet the following requirements:

- The representative should not be a person in a supervisory or a managerial position.
- The representative should be a person elected through a procedure of voting or by a show of hands which clarifies the election of a person who will conclude the labour-management Agreements.

Checkpoint 2

The 36 Agreement should meet the following standards:

Segmentation of the category of duties

- To conclude the 36 Agreement, the scope of duties for which an employer has workers work overtime must be defined through the segmentation of the category of duties, ensuring not to increase the duties covered based on an easy forecast of extraordinary duties.

Category of a fixed period

- | |
|-----------------------------------------------------|
| Period longer than 1 day but not exceeding 3 months |
|-----------------------------------------------------|
 - | |
|--------|
| 1 year |
|--------|
- } Both periods must be agreed on.

Limit of extended working hours

(1) In case of general workers

- Extended hours set forth under the 36 Agreement must not exceed the limit hours in the following Table even in the case of the longest hour:

| Period | Limit hours |
|----------|------------------------------------|
| 1 week | <input type="checkbox"/> 15 hours |
| 2 weeks | <input type="checkbox"/> 27 hours |
| 4 weeks | <input type="checkbox"/> 43 hours |
| 1 month | <input type="checkbox"/> 45 hours |
| 2 months | <input type="checkbox"/> 81 hours |
| 3 months | <input type="checkbox"/> 120 hours |
| 1 year | <input type="checkbox"/> 360 hours |

* If limit hours in case the fixed period does not fall under the left Table should be the hours obtained using a calculation formula. (For a specific calculation formula, please contact the Labour Standards Inspection Office.)

* Limit hours represent the number of hours which can be extended exceeding the legal working hours. It does not include working on legal holidays.

(2) In case of a person who works under the 1-Year Variable Working Hours System for which the applicable period exceeds 3 months

- Different from those in (1), the extended hours of a person who works under the One-Year Variable Working Hours System for which the applicable period exceeds 3 months must not exceed the limit hours shown in the Table below even in the case of the longest hour:

| Period | Limit Hours |
|----------|------------------------------------|
| 1 week | <input type="checkbox"/> 14 hours |
| 2 weeks | <input type="checkbox"/> 25 hours |
| 4 weeks | <input type="checkbox"/> 40 hours |
| 1 month | <input type="checkbox"/> 42 hours |
| 2 months | <input type="checkbox"/> 75 hours |
| 3 months | <input type="checkbox"/> 110 hours |
| 1 year | <input type="checkbox"/> 320 hours |

* If limit hours in case the fixed period does not fall under the Table in the left should be the hours obtained using a calculation formula. (For a specific calculation formula, please contact the Labour Standards Inspection Office.)

* Limit hours represent the number of hours which can be extended by exceeding the legal working hours. It does not include working on legal holidays.

● Agreement with special clauses

If a special occasion when an employer has to have workers work longer than the limit hours on an extraordinary basis is expected, an employer can treat the hours exceeding the limit hours as extended hours if concluding an Agreement with special clause as an example shown below:

* The Agreement with special clauses will be revised. (From April 1, 2010)

- ~~From April 1, 2010, a revision to curb the overtime work hours exceeding the limit hours will be enforced.~~
- When concluding the Agreement with special clauses, the following requirements should be necessary:
 - 1) Determine an extra-wage pay rate for each fixed period (longer than one day but not exceeding 3 months, 1 year) when an employer has workers work longer than the limit hours.
 - 2) Make efforts to raise the rate in 1) to a rate exceeding the legal extra-wage pay rate (25% or more).
 - 3) To begin with, make efforts to shorten the number of hours which can be extended.
- When the Agreement with the special clause is concluded or renewed on and after April 1, 2010, the example and requirements of such an Agreement are shown below: (Those with ★ are new items.)

(Example) “The extended hours in the fixed period should be 45 hours per month. However, if orders increase beyond the regular production and delivery becomes tight, the working hours can be extended to up to 60 hours per month, with a limit of six times through consultations between labour and management. If extended hours exceed 45 hours per month, the extra-wage pay rate should be 30%.”

In this case, the following requirements should be met.

- Define the extended hours in principal (hours within limit hours). (Note 1)
- Define as specifically as possible a special occasion when an employer has workers work longer than the limit hours. (Note 2)
 - A “special occasion” should fall under the following sections A and B. (Note 3)
 - A: Should be temporary and unexpected
 - B: Expected not to be longer than half a year as a whole
 - Specifically define procedures to be undertaken by labour and management regarding consultations, notifications, etc in case a special occasion occurs during the fixed period and the limit hours are extended. (Note 4)
 - Define the times of extensions for which the limit hours can be extended. (Note 5)
 - Define a fixed period of time which exceeds the limit hours. (Note 6)
- ★ In defining a fixed period of time which exceeds the limit hours, make efforts to shorten the hours as much as possible. (Note 7)
- ★ Define an extra-wage pay rate for the overtime work which exceeds the limit hours. (Note 8)
- ★ Make efforts to ensure that an extra-wage pay rate for the overtime work which exceeds the limit hours is higher than the legal extra-wage pay rate. (Note 9)

“Special occasion” should be limited to “extraordinary cases.”

“Extraordinary cases” refer to the cases where an employer needs to have workers work temporarily and unexpectedly and the period will not be longer than half a year as a whole. The reason for the special occasion where an employer has to have workers work longer than the limit hours should be restricted more than the specific reason for which an employer needs to have workers work overtime within the limit hours.

Examples of “special occasion”

< Recognized as extraordinary >

- Budgeting and account closing
- When busy at work in the bonus season
- Tight delivery
- Response to large-scale complaints
- Response to mechanical problems

< Not recognized as extraordinary >

- (Particularly reasons not limited) When necessary for the convenience of business
- (Particularly reasons not limited) When unavoidable to execute duties
- (Particularly reasons not limited) When busy at work
- When an employer recognizes as necessary
- Clear reasons that the special occasion is applicable throughout the year.

● Exclusion from application

The limit hours in above (1) and (2) are not applied to the following business or jobs:

- 1) Construction business
- 2) Auto-driving jobs
- 3) Jobs in research and development of new technologies, new products, etc.
- 4) Business or jobs designated by the Director of Labour Standards Bureau, the Ministry Health, Labour and Welfare (However, the limit hours for 1 year are applied.)
(For specific designated businesses or jobs, contact the labour standards inspection offices.)

(Example of description)

Form No.9 (concerning Article 17)

Notice of Overtime Work and Working on Holidays

| Type of business | | Name of business | | | Address of business (phone number) | | | |
|--------------------------------------------------------------------------|-----------------------------------------------------------------------|---------------------------------------------|-----------------------------------------------|------------------------------|-----------------------------------------------------------------------------------------|------------------------------------------------------------------|--------------------|---------------------------------|
| Manufacturing of metal products | | ○○ Factory of ○○ Metal Industries Co., Ltd. | | | 1-2-3, ○○ - cho, ○○ city (000-000-0000) | | | |
| | Specific reasons that an employer needs to have workers work overtime | Type of jobs | Number of workers (Persons aged 18 and above) | Scheduled working hours | Working hours which can be extended | | | Period |
| | | | | | One day | Fixed period which is one day or more (Initial calculation date) | | |
| | | | | | | One month (1st day every month) | One year (April 1) | |
| 1) Workers who do not fall under 2) | Temporary orders received, changes in delivery date | Inspection | 10 workers | 8 hours per day | 3 hours | 30 hours | 250 hours | For one year from April 1, ○○○○ |
| | Month-end account closing | Accounting | 5 workers | Same as above | 3 hours | 15 hours | 150 hours | Same as above |
| 2) Workers who work under the One-Year Variable Working Hours System | Temporary orders received, changes in delivery date | Assembly of machinery | 10 workers | Same as above | 3 hours | 20 hours | 200 hours | Same as above |
| Specific reasons that an employer needs to have workers work on holidays | | Type of jobs | Number of workers (Persons aged 18 and above) | Scheduled holidays | Holidays on which an employer can have a worker work and the starting and closing hours | | | Period |
| Temporary orders received, changes in delivery date | | Assembly of machinery | 10 workers | Saturdays/Sundays every week | One day per month: 8:30 to 17:30 | | | For one year from April 1, ○○○○ |

Approved date of the Agreement: March 12, ○○○○

The name of the credit union, a party to the Agreement, and the title and the name of a person representing a majority of workers Name: Hanako Yamada
Title: Chief of Inspection Section

Method to elect the party to the Agreement (in case of a person representing a majority of workers) (election by voting)

Date: March 15, ○○○○

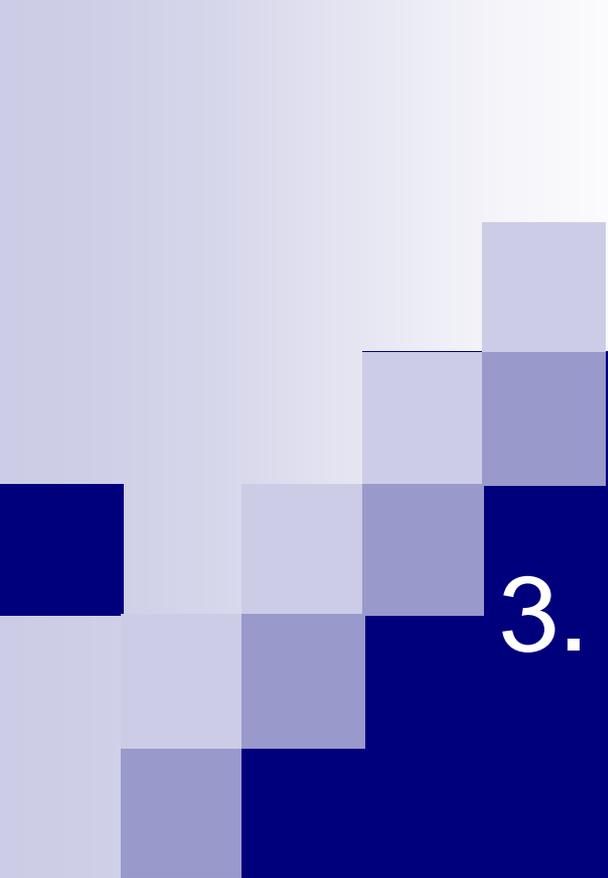
Employer Name: Taro Tanaka
Title: Head of Factory



To Director of ○○ Labour Standards Inspection Office

Notes to fill in this notification

- For the "Type of Jobs" column, specifically enter the job for which an employer needs workers to work overtime or work on holidays, and enter the job separately from other jobs if an Agreement is concluded on harmful jobs for the purpose of health set forth in the provision of Article 36, paragraph 1 of the Labour Standards Law.
- Making entries in the "Working hours which can be extended" column as follows:
 - For the "One day" column, enter limited hours for one day, which are extendable hours exceeding the longest working hour that an employer can have workers work under Article 32 to Article 32-5 or the provisions of Article 40 of the Labour Standards Law.
 - For the "Fixed period which is one day or more (Initial calculation date)" column, enter in the upper column all periods set forth in the Agreement in relation to the limit hours extendable for a period longer than 1 day but not exceeding 3 months, and 1 year, which are set forth in the Agreement of Article 36, paragraph 1 of the Labour Standards Law and are hours extendable exceeding the longest working hour that an employer can have workers work under the Article 32 to Article 32-5 or the provisions of the Article 40 of the Law. Then enter the initial calculation date of the period in brackets in the lower column and enter the limited hours for each period according to the period.
- For column 2), enter the workers who work according to the working hours under the provisions of the Article 32-4 of the Labour Standards Law (limited to those who work under the One-Year Variable Working Hours System for which the period exceeds 3 months).
- For the "Holidays on which an employer can have a worker work and the starting and closing hours" column, enter the day which is a holiday under the Article 35 of the Labour Standards Act and on which an employer can have a worker work, and the starting and closing hours of work.
- For the "Period" column, enter the period in which the day that an employer can make workers work overtime or work on holidays.



3. Outline of the Revised Act

Outline of the Act on the Partial Revision of the Labour Standards Act (Act No.89 of 2008)

(1) Reduction of overtime work exceeding the limit hours by labour and management

Reduction of Overtime Work Exceeding Limit Hours by Labour and Management

The labour and management must strive to stipulate, in a labour agreement on overtime work, an extra wage pay rate higher than a legal rate (25%) applicable to overtime work exceeding limit hours as set forth in the Notice of Limit Standards (Note).

(Note) For example, 45 hours per month, 360 hours per year, etc.

Raise in the legal extra wage pay rate

* *Small and medium companies are given grace period on the rate raise for the time being.*

For overtime work exceeding 60 hours monthly, the extra wage pay rate is raised to 50% or higher.
(Currently, 25%)

Creation of the compensatory leave system

On the conclusion of the labour and management agreements, paid leave can be granted instead of the payment of a portion of the extra wage increased by the raising of the legal extra wage pay rate (Note) stipulated in the revised Act.

(Note) For example, $50\% - 25\% = 25\%$

(An example in case the extra wage pay rate prior to the rate raise is a flat 25% to simplify the method)

(2) Effective use of annual paid leave

Creation of annual paid leave system by the hour

By the conclusion of the labour and management agreements, annual paid leave up to 5 days per year can be taken by the hour.

Reduction of Overtime Work Exceeding Limit Hours by Labour and Management

Through labour and management efforts, overtime work exceeding limit hours is curbed for example by raising the extra wage pay rate applicable to overtime work exceeding limit hours and other measures.

Details of the revision

- When concluding a labour agreement on overtime work with special clauses, both labour and management must make efforts to shorten the hours of overtime work exceeding limit hours as much as possible.
- An agreement with special clauses must stipulate an extra wage pay rate for overtime work exceeding limit hours.
- When stipulating an extra wage pay rate applicable to overtime work exceeding limit hours, both labour and management must make efforts to ensure that **the rate is higher than the legal extra wage pay rate (currently 25%)**.

Notes

- When concluding an agreement with special clauses both on **(i) a period longer than 1 day but not exceeding 3 months** and **(ii) 1 year**, the agreement must stipulate an extra wage pay rate applicable to hours exceeding the limit hours for **each term**.
- The extra wage pay rate applicable to overtime work exceeding limit hours should be stipulated in the work rules. (Article 89, item 2 of the Act: “Methods for determination, calculation and payment of wages”)
- The revisions are applied when an agreement with special clauses is concluded on or after April 1, 2010, and an agreement which was concluded before such date is renewed on and after this date.

Raising the Legal Extra Wage Pay Rate

This raise aims to strongly curb very long overtime work by increasing employers' economic burden from extra wages.

Details of the revision

- Raising the legal extra pay rate applied to overtime work exceeding 60 hours per month from the current “25% or higher ” to “50% or higher.”
- Small and medium companies are exempt from the application of the raise for the time being (See next page).
 - * Necessary actions should be taken after 3 years of the enforcement of the revised Act, after considering and reviewing the situation of the enforcement of the revised Act and the development of overtime work.

Notes

- “1 month” refers to 1 month of the calendar and the initial calculation date should be set forth in work rules. (Article 89, item 2 of the Act “Methods for determination, calculation and payment of wages”)
- For example, the initial calculation date for 1 month may be the first day of the month, the first day of the wage calculation period, or the initial calculation date of a fixed period set forth in a labour agreement on overtime work.
- Payment of the extra wage calculated at the rate of 50% or higher must be made after reaching 60 overtime hours **accumulated** from the initial calculation date of one month.

Small and Medium Companies that are Exempt from the Application of the Revised Act

As with the definition of the small and medium companies set forth in the Small and Medium Enterprises Basic Act

Determined by either

- (i) **Total capital amount or total investment amount** or
- (ii) **Number of regular workers,**

depending on industry (**determined** by whole company, not by a workplace)

| Industry | Total capital amount or total investment amount | Or | Number of regular workers |
|-----------|-------------------------------------------------|----|---------------------------|
| Retail | 50 million Yen or less | Or | 50 or less |
| Services | 50 million Yen or less | Or | 100 or less |
| Wholesale | 100 million Yen or less | Or | 100 or less |
| Other | 300 million Yen or less | Or | 300 or less |

* The industry is categorized based on the Japan Standard Industrial Classification

Notes

- Companies doing business on multiple categories are determined by category of main business.
- “Number of regular workers” is determined by a normal circumstance, and by presence of labour contract.

Raise of the Legal Extra Wage Pay Rate (Concerning Working on Holidays and Working during Late Nights)

Working on holidays

- **Working on scheduled holidays** other than legal holidays (one holiday per week or 4 holidays during 4 weeks) should be **included in calculating the “60 hours per month”** as overtime work, if the working hours of such work are more than the legal working hours.

(Note) In some cases, working hours of work on Saturdays may be included in the calculation of the “60 hours per month” even when the extra wage pay rate is 35%.

- It is desirable that a distinction between the “working on holidays” and the “scheduled holidays” is clarified in order to define labour conditions and simplify the calculation of extra wages.

! Note that the “overtime work” and the “work on holidays” is not the same thing.

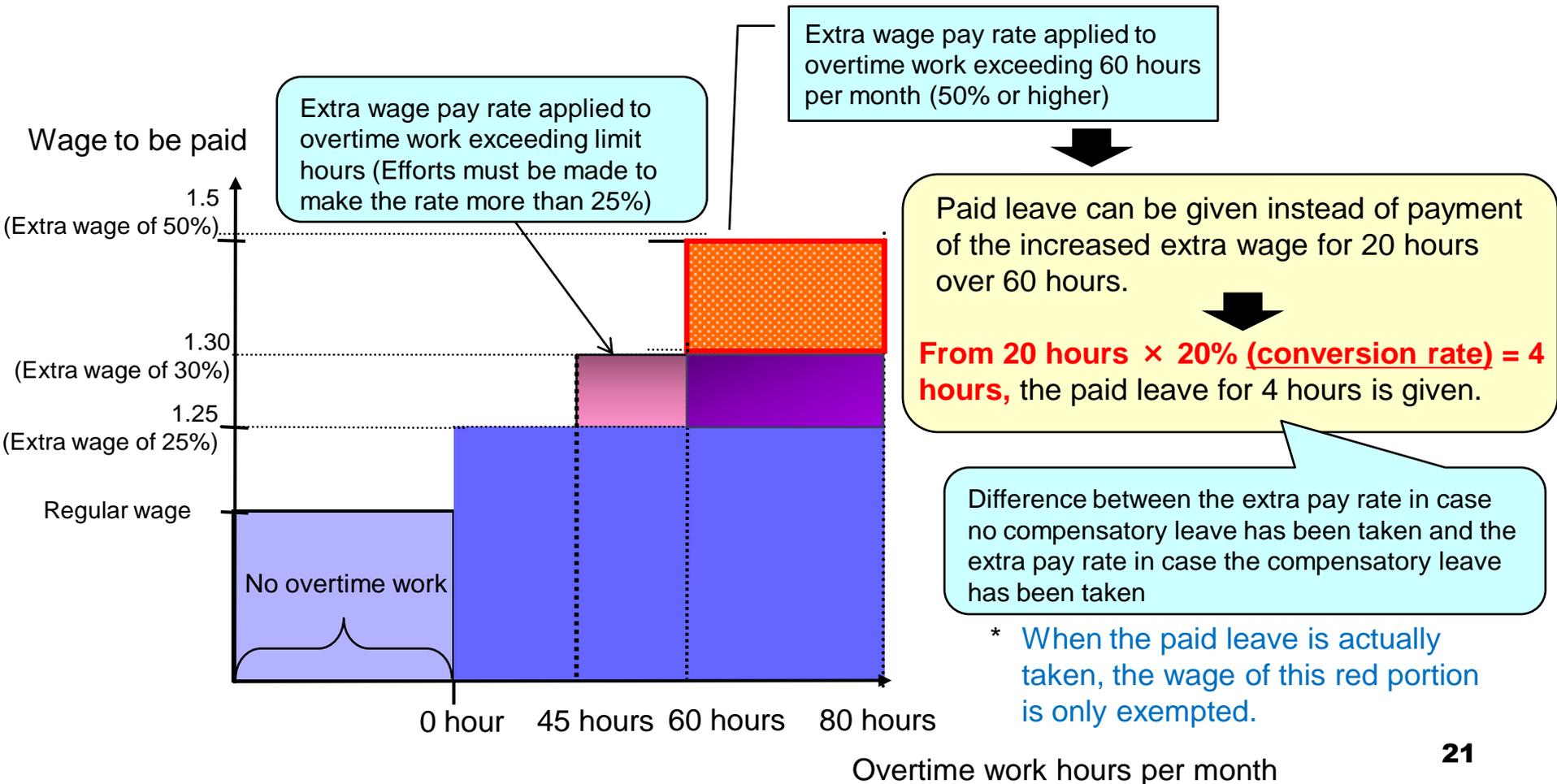
Working during late nights

- For working on late nights with overtime work of 60 hours or more per month, an **extra wage pay rate of 75% or higher** is applicable. (25% + 50% = 75%)

*** The extra wage rate applied to small and medium companies remains at 50% or higher.
(25% + 25%)**

Compensatory Leave

With the aim of giving rest to a worker whom an employer has asked to work especially long hours of overtime work, the employer may grant paid leave to the worker who has worked more than 60 hours per month instead of the payment of portion of the extra wage increased by this revision, subject to an agreement between labour and management.



Matters to be Stipulated in a Labour-Management Agreement on Compensatory Leave

Matters to be stipulated in a labour-management agreement

- (i) Calculation method for the number of hours which can be given as compensatory leave
- (ii) Unit of compensatory leave
- (iii) Period for which compensatory leave is given
- (iv) Date for which compensatory leave is taken, and the payment date of extra wages

(i) Calculation method for hours which can be given as compensatory leave

- **Specifically** stipulate a calculation method based on the following calculation method.

$$\text{Hours which can be given as compensatory leave} = \left(\text{Overtime working hours per month} - 60 \text{ hours} \right) \times \text{Conversion rate}$$

$$\text{Conversion rate} = \text{The pay rate of the extra wage to be paid in case a worker **has not taken** the compensatory leave. (e.g., 50\%)} - \text{The pay rate of the extra wage to be paid in case a worker **has taken** the compensatory leave. (e.g., 30\%)}$$

- The above extra wage pay rate should also be set forth in work rules. (Article 89, item 2 of the Act:“Methods for determination, calculation and payment of wages”)

Matters to be Stipulated in the Labour-Management Agreement on Compensatory Leave (continued)

(ii) Unit of compensatory leave

- **The unit should be a “one day” or a “half day.”**
 - * A “half day” does not always has to be half of the scheduled working hours for one day, but the definition of a “half day” in the workplace should be set forth in the labour-management agreement.
- **A “one day” or a “half day” can also be combined with the holiday other than the compensatory leave for which wages for normal working hours are paid. (This should be set forth in the labour-management agreement.)**
 - * While newly established voluntary holiday are envisioned, an employer may use existing holidays or annual paid leave by the hour as compensatory leave **when a worker requests it.**
 - * Even when combining with other holidays, only a portion of the compensatory leave should replace the payment of a portion of the extra wage increased by the raising of the legal extra wage pay rate.

(iii) Period for which the compensatory leave is given

- **Within 2 months from the day following the last day of the month in which the overtime working hours are more than 60 hours per month.**
 - ← To give rest to a worker by giving the compensatory leave in a period close to the month in which an employee works especially long overtime hours.
- * In case of “within 2 months,” a “one day” or a “half day” leave can be made possible **by combining a compensatory leave corresponding to the overtime work of 2 months ago and the previous month.**

Matters to be Stipulated in the Labour-Management Agreement on Compensatory Leave (continued)

(iv) Date of taking compensatory leave and payment date of extra wages

Matters which are set forth in a notification as those which should be stipulated in the labour-management agreement in order to early determine the amount of wages to be paid

○ **A method to determine the date when compensation holidays are taken based on the intention of workers**

- Employer should confirm the intention of taking compensatory leave with workers within as early as possible from the last day of the month in which an employer made workers work overtime exceeding 60 hours per month.

* Legally, The date that compensatory leave are actually given is the date based on the intentions of workers.

○ **The payment date of extra wages for overtime work exceeding 60 hours per month**

In case workers have the intention to take compensatory leave

- Extra wages other than a portion increased by law (In the example as stated above, a portion of more than 45 hours is calculated at 30%) should be paid on the payment date regarding the wage calculation period in which the extra wages are due.

* When compensatory leave is not actually taken, it is necessary to make a payment on the wage payment date regarding the wage calculation period in which the fact that holidays cannot be taken is determined.

In case workers have no intention of taking compensatory leave, or if the intentions cannot be confirmed

- Extra wages including those increased by law should be paid on the payment date regarding the wage calculation period in which wages are due.
- In case the workers intend to take compensatory leave after the extra wages including those increased by law have been paid



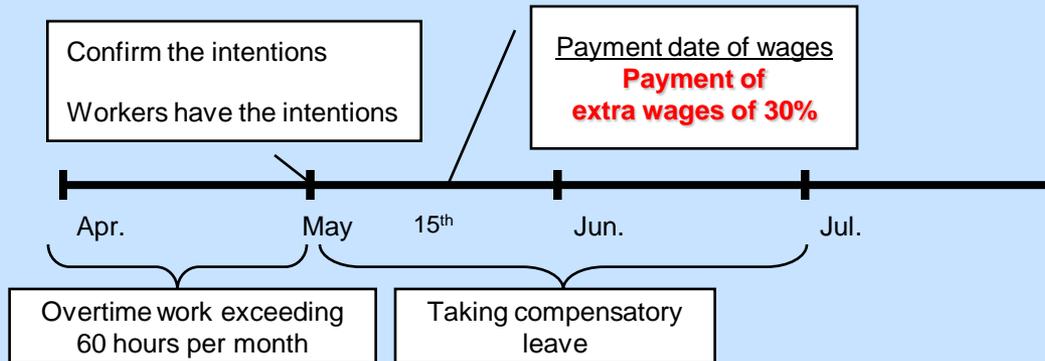
- (i) The labour-management agreement may stipulate that workers cannot take compensatory leave.
- (ii) Or, agreement may specify that workers can take compensatory leave even in these cases, and make workers repay overpayment after worker takes leave.

Taking Compensatory Leave and Payment Date of Extra Wages (Specific Image)

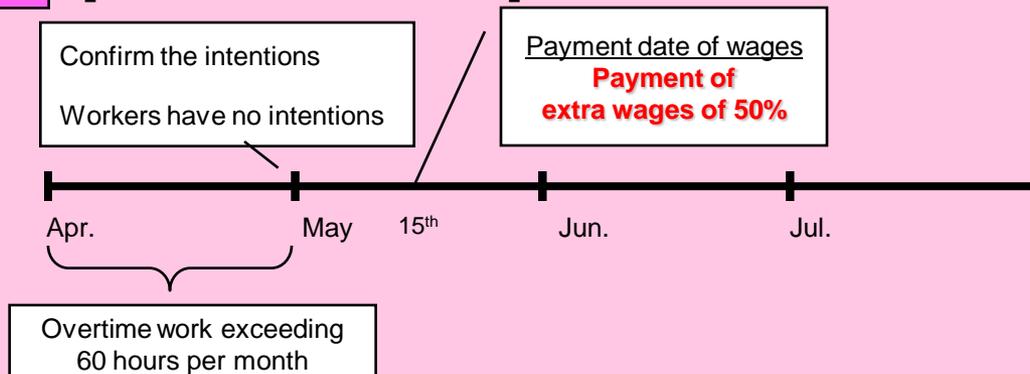
For the workplace of:

- Closing date for wages is the end of month.
- Payment date of wages is the 15th of the following month.
- Compensatory leave is taken within 2 months.
- Extra wage rate of 50% in case workers do not take compensatory leave
- Extra wage rate of 30% in case workers take compensatory leave

A [In case workers intend to take compensatory leave]



B [Cases other than A]



Other Matters concerning Compensatory Leave

Hours for which the payment of a portion of extra wages increased by the raising of the legal extra wage pay rate is not necessary

- Work for hours corresponding to compensatory leave that workers take when overtime work exceeds 60 hours per month.

(Example) A workplace where working hours are 80 hours per month, the extra wage pay rate is 50% in case compensatory leave is not taken and 30% in case compensatory leave is taken → Compensatory leave for 4 hours is taken (20 hours × 20%)
→ Extra wages for 20 hours become unnecessary. (For the amount, extra wage calculation basic amount for 20 hours × 20%)

- * Even when compensatory leave is taken, extra wages should be paid at the rate applied prior to the rate being raised. (In case of the above, 30%)

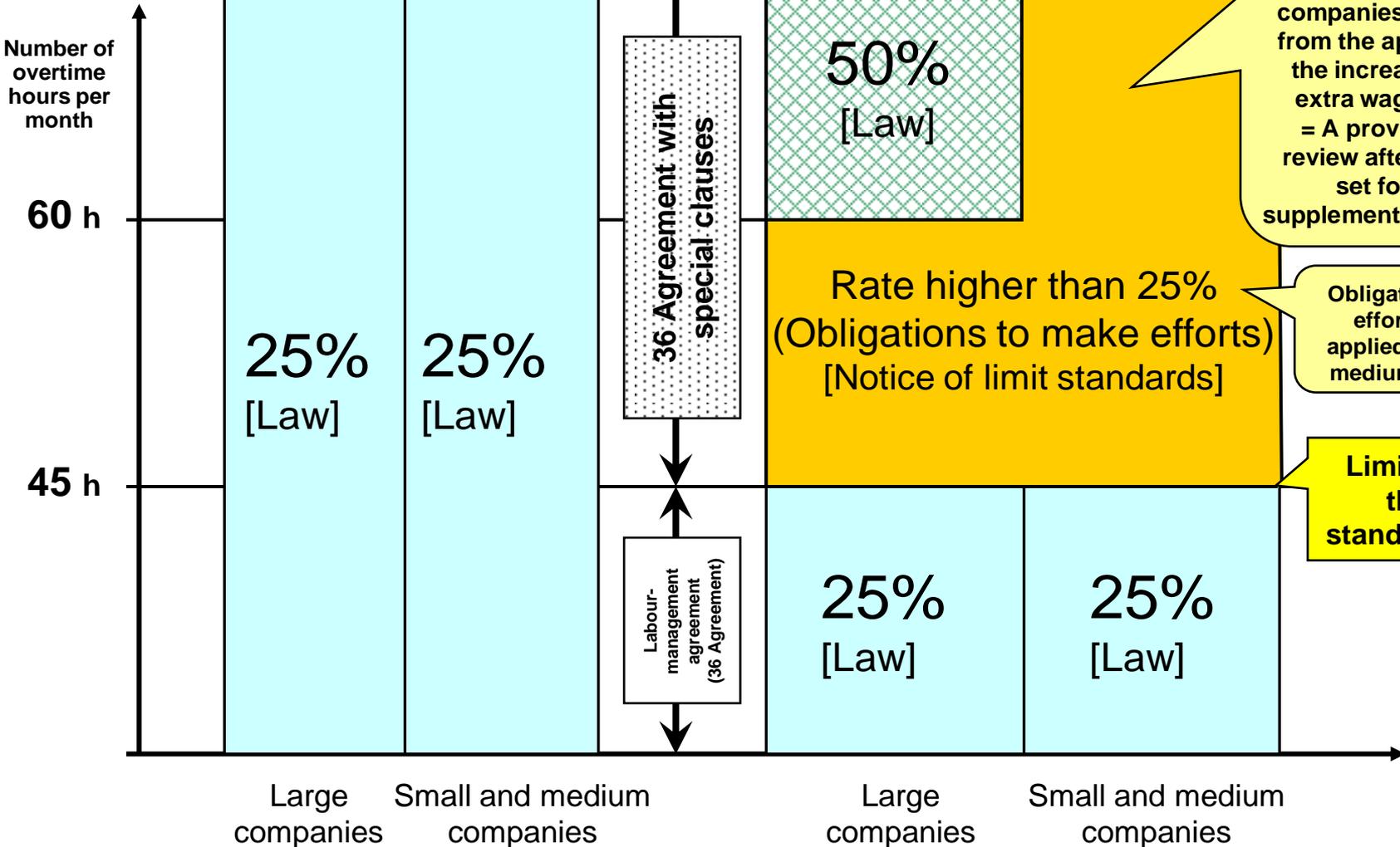
Note

- Even when an agreement is concluded, **an employer cannot oblige each worker to take compensatory leave.**
- The day a worker does not work throughout the day should not be included in “all working days” which are the basis of calculating annual paid leave.
- Matters for compensatory leave should be set forth in work rules. (Article 89, paragraph 1 of the Act “Holidays”)
- A person representing a majority of workers to conclude a labour-management agreement should be (i) a person who is not a supervisor and (ii) a person who is elected through a procedure by vote or a show of hands.

Structure of Extra Wage Pay Rate Applied to Overtime Work (Summary)

[Current]

[After the revision]



Annual Paid Leave by the Hour

Considering the original meaning of annual paid leave, the purpose of annual paid leave by the hour is to ensure effective usage of the annual paid leave in view of achieving work-life balance of workers.

Details of the revision

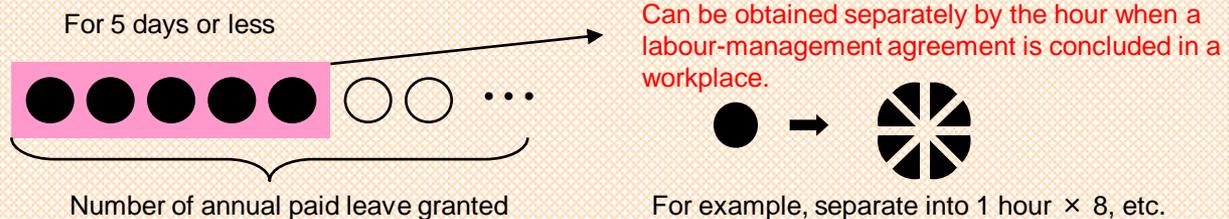
○ Currently, annual paid leave is taken “by the day.”

➔ By concluding a labour-management agreement in at a workplace, annual **paid leave can be taken “by the hour”** up to 5 days per year.

Matters to be stipulated in a labour-management agreement

- (i) Scope of workers for annual paid leave by the hour
- (ii) Number of annual paid leave by the hour
- (iii) Number of hours per day for annual paid leave by the hour
- (iv) Number of hours in case of units of hours other than one hour

[Figure] Structure of annual paid leave by the hour



Matters to be Stipulated in a Labour-Management Agreement on Annual Paid Leave by the Hour

(i) Scope of workers for annual paid leave by the hour

- Consider an adjustment with normal business operations, determine the scope of workers to be covered.

(Example) Include workers in an accounting division and exclude the workers in a manufacturing line.

* **Note that the scope of workers cannot be stipulated depending the purpose of use, for example “to raise children.”**

(ii) Number of annual paid leave by the hour

- Should be 5 days or less.



To take a certain number of holidays at once is the original purpose of annual paid leave.

- * Regarding workers for whom annual paid leave of less than 5 days is granted proportionally, the number of annual paid leave should be within the scope of the days granted proportionally.
- * **Even when annual paid leave is not taken and they are carried forward to the next fiscal year, the number of annual paid leave by the hour should be 5 days or less including the days carried forward from the previous fiscal year.**



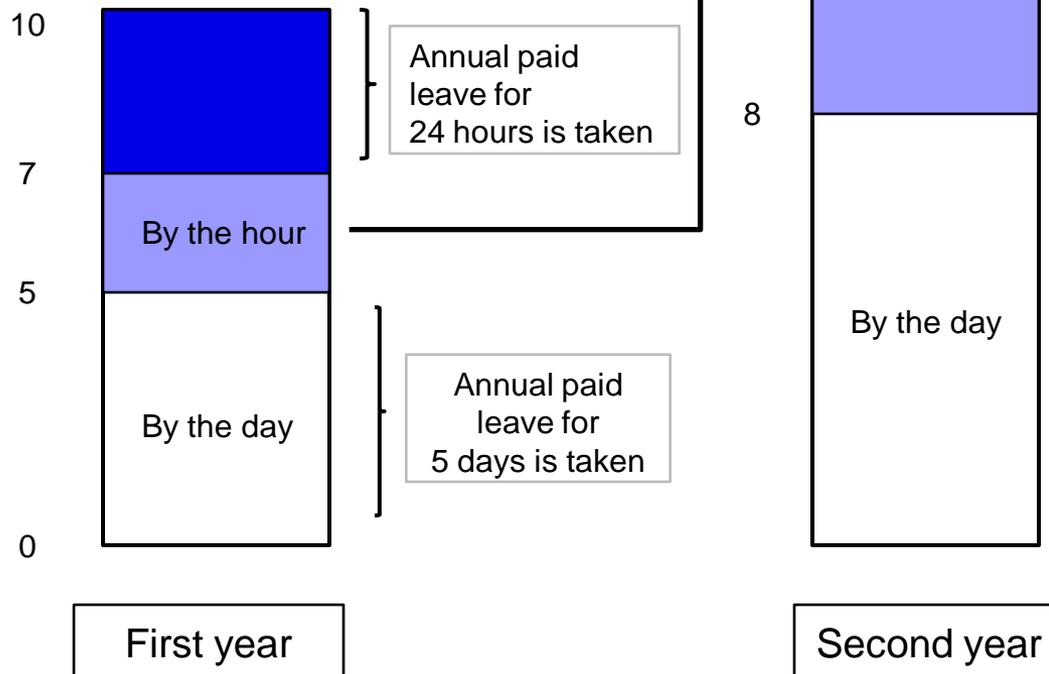
Refer to the image of the next page.

Image of Carryover of Annual Paid Leave by the Hour

In case scheduled working hours are 8 hours and annual paid leave are 5 days

The annual paid leave in the first year is taken as follows:

- 5 days by the day
- 24 hours by the hour



Days carried over

Up to 5 days including days carried over

Matters to be Stipulated in a Labour-Management Agreement on Annual Paid Leave by the Hour (Continued)

(iii) Number of hours for one day of the annual paid leave by the hour

- **Specify the number of integer hours no less than one day's scheduled working hours.**

← To prevent any disadvantage for workers with a fraction of less than one hour in their scheduled working hour

(Example) In case of workers with the scheduled working hours of 7 hours and 30 minutes, the number of hours should be “8 hours.”

- * **In case the number of working hours differs from day to day depending on the worker, the hours should be the number of average working hours per day during a year.**
- * In case the number of working hours differs from day to day depending on the worker, the hours **can be grouped** as long as the worker is specified.

(Example) “6 hours” A worker with 5 hours and 40 minutes or 6 hours of the scheduled working hours
“7 hours” A worker with 6 hours and 30 minutes or 7 hours of the scheduled working hours
“8 hours” A worker with 7 hours and 30 minutes or 8 hours of the scheduled working hours

(iv) The number of hours in case an hour other than one hour is a unit hour

- **In case of a “2-hour unit” or a “3-hour unit,” stipulate the number of hours thereof.**
- * However, the hours should be less than the scheduled working hours.

Relation with a Right to Change the Period, and Pre-determined Annual Paid Leave

Relation with the right to change the season

- Annual paid leave is also subject to an employer's right to change the period, thus the employer is allowed to change the season to another season "in case the change in the period interferes with the implementation of normal business management."

* **The following cases are not allowed as they do not fall under the change of the period:**

- (i) A change to a **day-unit** in case a worker requests to take paid leave by **the hour**
- (ii) A change to an **hour-unit** in case a worker requests to take paid leave by **the day**

* **Whether or not "to interfere with the implementation of normal business management" should be determined individually, specifically and objectively in connection with a specific request from a worker. The following cases are not allowed:**

- (i) To stipulate a **time range** in a labour-management agreement that annual paid leave **cannot be taken**
- (ii) **To restrict the taking of paid leave during the** scheduled working hours (Prohibition of the so-called "Nakanuke")
- (iii) **To restrict the number of hours and the time for which paid leave can be taken in one day**

Relation with pre-determined annual paid leave

- Granting annual paid leave by the hour is not allowed as pre-determined leave.

Other Matters Related to Annual Paid Leave by the Hour

General matters to be noted

- Even when the labour-management agreement has been concluded, either paid leave by the hour or by the day should be at the discretion of workers.



An employer cannot obligate workers to take paid holidays by the hour.

- Matters related to annual paid holidays should be set forth in work rules. (Article 89, paragraph 1 of the Act “Holidays”)
- A person representing a majority of workers to conclude an agreement should fall under both (i) a person who is not a supervisor and (ii) a person who is elected by vote or a show of hands. (In case of not falling under (i), only (ii))
- The amount to be paid for the hours for which annual paid leave by the hour are taken should be any of the following items:

- (i) $(\text{Average wage} / \text{Number of scheduled working hours}) \text{ for the day} \times \text{Number of hours taken}$
- (ii) $(\text{Regular wage amount in case a worker works the scheduled working hours} / \text{Number of hours for the day}) \times \text{Number of hours taken}$
- (iii) $(\text{Daily standard remuneration amount} / \text{Number of scheduled working hours for the day}) \times \text{Number of hours taken}$

Others

- When annual paid leave is taken for one day, the unit of the leave should be not an hour but a day in principle.
- The treatment of annual paid leave by “half-day” should remain unchanged.