

## Section 2. Creating Safe and Secure Workplaces

### 1. Securing and Improving Working Conditions

#### (1) Securing and Improving Working Conditions

Many people have consulted the Labour Standards Inspection Office nationwide regarding problems with secure implementation of statutory work conditions that include the non-payment of wages and dismissal at to company's convenience without prior notice. Considering this, business operators need to be urged to be more conscious of compliance so that workers can work without any anxiety in legal working conditions.

The Ministry of Health, Labour and Welfare has been taking appropriate measures from an early stage when corporate bankruptcy or closure of workplaces occur, including payment of wages and retirement allowances as well as securing savings under the company savings program to prevent a situation where legal working conditions are not being met, such as non-payment of wages. When workers notify the Ministry of any dismissals or non-payment of wages that may have violated the laws and regulations associated with the Labour Standards Act, or consulted the Ministry on any such matter, the Ministry promptly provides appropriate support to solve the violation while taking into consideration the status of the workers who notified or consulted on the situation.

#### **1) Compliance with legal standards for working hours**

To realize an affluent life style free of stress for workers it is important to restrict long work hours, a major social problem these days.

The Ministry, therefore, has been endeavouring to enforce a 40-hour workweek, which is the legal working hour. With regard to overtime work conducted under a labour-management agreement (so-called "36 agreement"), the Ministry is making the effort to disseminate standards for limiting work hours from being extended, which is being determined in the labour-management agreement referred to in Article 36, paragraph 1 of the Labor Standards Act, and instructing both employees and labour unions to abide by the standards.

Since unpaid overtime work is a violation of the Labor Standards Act and can not be condoned, the Ministry formulated "standards for measures to be taken by employers to appropriately identify employees' work hours" on April 6, 2001 and has taken every opportunity to disseminate those standards and execute supervision and guidance on work hours.

#### **2) Judicial Actions**

When serious and pernicious legal violations are discovered as a result of supervisory guidance

conducted by labour standards inspection organizations, strict action will be taken, including judicial. In 2006, the number of criminal charges came to 1,219 cases.

Labour standards inspectors posted at all the Labour Standards Inspection Offices deal with judicial actions. To promptly and efficiently cope with cases that have been growing in scale and complexity, “special judicial inspectors” have been posted at the Hokkaido, Saitama, Chiba, Tokyo, Kanagawa, Niigata, Shizuoka, Aichi, Kyoto, Osaka, Hyogo, Hiroshima, and Fukuoka Labour Bureaus in order to improve and strengthen the investigation system.

## Column

### Unpaid Overtime Work

1. Focused measures such as executing appropriate supervision and guidance have been taken to resolve the issue of unpaid overtime work. In addition, a “Comprehensive Measures against Unpaid Overtime Work Scheme” was formulated in 2003. In accordance with the scheme comprehensive measures are being promoted including publication of the “Guidelines for Measures to be taken to Dissolve Unpaid Overtime Work” that provides the measures to be taken by labour-management in controlling work hours and dissolving unpaid overtime work at enterprises.

2. During the 1 year period of April 2006 to March 2007 the Labour Standards Inspection Office nationwide provided instructions for to rectifying unpaid overtime work in violation of Article 37 of the Labor Standards Act, resulting in premium pay for non-payment being paid to workers. Among them the number of enterprises that paid 1 million yen or more was 1,679 while approximately 22.7 billion yen of the total premiums was paid to 182,561 workers.

## (2) Project to Pay Unpaid Wages

Wages are the most essential element in a labour contract because they constitute the financial resources of workers and their families.

Practically speaking, however, workers cannot hope to receive any wages when an enterprise goes bankrupt and the business operator is not capable of paying of them.

Therefore, based on the “Security of Wage Payment Law” the government is conducting a project to pay workers their unpaid wages on behalf of bankrupt business operators. In this project workers who have retired within a certain period with unpaid wages from bankrupt business operators are able to receive a certain percentage of their unpaid regular salary and severance pay.

Although the Japanese economy is recovering, the total number of cases pertinent to this project increased in 2007 when compared with the previous year. In 2007, the number of enterprises was 3,349, the number of recipients 41,322, and the total amount of payments made approximately 23.4 billion yen. The numbers in 2006 were 3,014 enterprises, 40,888 recipients, and approximately 20.4 billion yen, respectively.

## (3) Appropriate Management of the Minimum Wage System

The minimum wage system stipulates that the government controls the enforceable minimum amount of wages and that employers must pay workers at least the minimum wage. In Japan this system is being enforced under the Minimum Wage Act so that the life of workers can be stabilized, the quality of workforce enhanced and fair competition in business ensured.

At present there are two types of minimum wages. A prefectural minimum wage is applicable with all employers and workers in all the prefectures (47 cases) while an occupational minimum wage, which is higher than the regional minimum wage, is applicable to employers and workers in particular industries in all prefectures (250 cases).

The national weighted average hourly minimum wage as of April 1, 2008 was 687 yen an hour as the prefectural minimum wage and 775 yen an hour as the occupational minimum wage (see Figure 3-2-1).

**Figure 3-2-1. Revision of Prefectural Minimum Wage**

| Prefecture | Hourly Wage (unit: yen) | Effective Date | Prefecture | Hourly Wage (unit: yen) | Effective Date | Prefecture | Hourly Wage (unit: yen) | Effective Date | Prefecture | Hourly Wage (unit: yen) | Effective Date |
|------------|-------------------------|----------------|------------|-------------------------|----------------|------------|-------------------------|----------------|------------|-------------------------|----------------|
| Hokkaido   | 654                     | Oct. 19, 2007  | Tokyo      | 739                     | Oct. 19, 2007  | Shiga      | 677                     | Oct. 25, 2007  | Kagawa     | 640                     | Oct. 21, 2007  |
| Aomori     | 619                     | Oct. 31, 2007  | Kanagawa   | 736                     | Oct. 19, 2007  | Kyoto      | 700                     | Oct. 25, 2007  | Ehime      | 623                     | Oct. 25, 2007  |
| Iwate      | 619                     | Oct. 28, 2007  | Niigata    | 657                     | Oct. 19, 2007  | Osaka      | 731                     | Oct. 20, 2007  | Kochi      | 622                     | Oct. 26, 2007  |
| Miyagi     | 639                     | Oct. 20, 2007  | Toyama     | 666                     | Oct. 20, 2007  | Hyogo      | 697                     | Oct. 31, 2007  | Fukuoka    | 663                     | Oct. 28, 2007  |
| Akita      | 618                     | Oct. 28, 2007  | Ishikawa   | 662                     | Oct. 21, 2007  | Nara       | 667                     | Oct. 25, 2007  | Saga       | 619                     | Oct. 28, 2007  |
| Yamagata   | 620                     | Oct. 25, 2007  | Fukui      | 659                     | Oct. 19, 2007  | Wakayama   | 662                     | Oct. 20, 2007  | Nagasaki   | 619                     | Oct. 21, 2007  |
| Fukushima  | 629                     | Oct. 19, 2007  | Yamanashi  | 665                     | Oct. 28, 2007  | Tottori    | 621                     | Oct. 21, 2007  | Kumamoto   | 620                     | Oct. 25, 2007  |
| Ibaraki    | 665                     | Oct. 20, 2007  | Nagano     | 669                     | Oct. 21, 2007  | Shimane    | 621                     | Oct. 19, 2007  | Oita       | 620                     | Oct. 20, 2007  |
| Tochigi    | 671                     | Oct. 20, 2007  | Gifu       | 685                     | Oct. 19, 2007  | Okayama    | 658                     | Oct. 26, 2007  | Miyazaki   | 619                     | Oct. 27, 2007  |
| Gunma      | 664                     | Oct. 19, 2007  | Shizuoka   | 697                     | Oct. 26, 2007  | Hiroshima  | 669                     | Oct. 28, 2007  | Kagoshima  | 619                     | Oct. 26, 2007  |
| Saitama    | 702                     | Oct. 20, 2007  | Aichi      | 714                     | Oct. 25, 2007  | Yamaguchi  | 657                     | Oct. 28, 2007  | Okinawa    | 618                     | Oct. 28, 2007  |
| Chiba      | 706                     | Oct. 19, 2007  | Mie        | 689                     | Oct. 27, 2007  | Tokushima  | 625                     | Oct. 21, 2007  |            |                         |                |

## 2. Development of Healthy Safe Workplaces

### (1) Formulation of an Industrial Accident Prevention Plan

The Ministry of Health, Labour and Welfare have formulated industrial accident prevention plans for total of 10 times since 1958 in promoting industrial accident prevention in a systematic and effective manner. As the 10th plan to have been completed, at the end of FY 2007, the 11th Industrial Accident Prevention Plan (5 year plan to be completed in FY 2012) was formulated. The 11th plan takes into consideration of recent industrial accidents as well as the social and economic situation, and the basic matters include promotion of measures to reduce risk at workplaces in decreasing the number of industrial accidents and improving concrete measures against critical

industrial accidents as well as accurate implementation of them.

## (2) Measures to Prevent Industrial Accidents

### 1) Current situation with industrial accidents and preventive measures

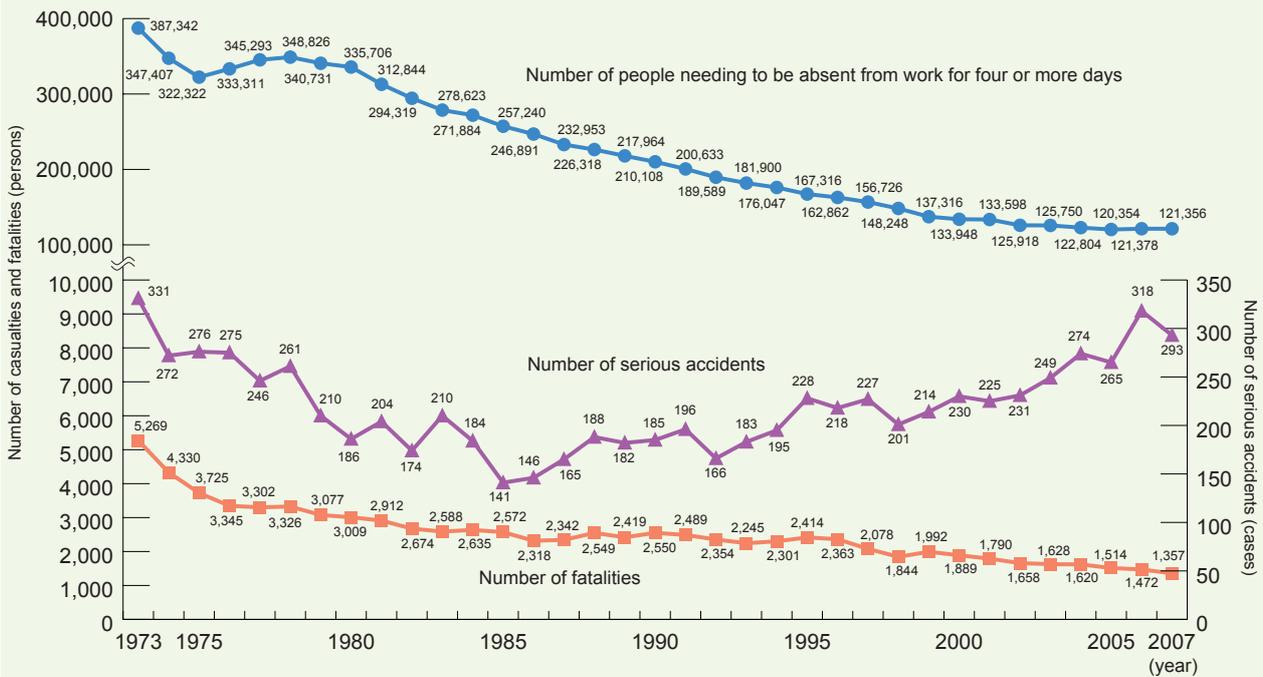
Although the number of industrial accidents in Japan has been decreasing over the long term, it still amounts to approximately 550,000 workers annually. The number of industrial accidents causing people to be absent from work for four or more days in 2007 was 121,356, a slight decrease of 22 when compared to 2006.

The figure in 2007 was 1,357 for fatal industrial accidents, which was the smallest recorded number in history, breaking the previous year's record low. The construction industry was at the top of the list with 461 fatalities, followed by 264 in the manufacturing industry and 196 in land transportation.

The number of serious accidents (accidents in which 3 or more people were killed or injured or sickened) has been declining after the peak of 480 cases in 1968. However, there has been an increasing trend since 1985 with ups and downs in certain years. The total number was 293 in 2007, a decrease of 25 cases from the previous year, with 161 cases of the total being caused by traffic accidents.

The Ministry of Health, Labour and Welfare has been actively promoting implementation of a "danger and risk survey" that was based on the 11th Industrial Accident Prevention Plan, preventive measures against frequently occurring machinery accidents and specific accidents such as falling and tumbling, and preventive measures for respective types of businesses (see Figure 3-2-2).

**Figure 3-2-2. Changes in the Number of Industrial Accidents**



Source: Labour Standards Bureau, the Ministry of Health, Labour and Welfare

## 2) Promotion of voluntary actions for safety and health management by business operators

As production processes have become more diverse and complex in recent years the causes of accidents have also become more diverse and difficult to identify. In consideration of this, the Industrial Safety and Health Act was revised in that business operators are obliged to make the effort to conduct surveys on dangers and risks that exist at workplaces and then implement measures based on the results. In order to facilitate appropriate and effective implementation of such measures the “Guidelines for Danger and Risk Surveys” was published with efforts being made to publicize and provide that guidance at workplaces.

In addition, voluntary actions for safety and health management by business operators are being promoted which includes the introduction of a labour safety and health management system, which is a system to consecutively improve safety and health standards through implementation of such measures in a systematic and continuous manner.

## (3) Measures to Ensure Workers' Health

### 1) Measures to prevent health problems including death caused by overwork

In order to prevent health problems caused by long work hours, the Industrial Safety and Health Act was revised as from April 2006 business operators have been obliged to have doctors conduct interviews and provide guidance to workers who have performed more than a fixed amount of

overtime work and hence are exhausted. In addition, instructions on preventive measures against overwork are being given to business operators based on the “Comprehensive Preventive Measures against Health Problems Caused by Overwork” (hereinafter referred to as the “Comprehensive Measures against Overwork”). Furthermore, as workplaces which regularly employ less than 50 workers have also been obligated to conduct interviews and guidance since April 2008, the Comprehensive Measures against Overwork were revised in March 2008.

## **2) Measures to maintain and improve workers’ health both physically and mentally at the workplace**

The Industrial Safety and Health Act was revised to include mental health checkups when people who work long hours are being interviewed and provided with guidance by doctors. In addition, combined with the revision of the law, measures for mental health have been added to the agenda of the health committee in order that voluntary mental health measures are promoted by labour-management. Furthermore, the “Guidelines for Maintaining and Improving Workers’ Mental Health” that was based on the Industrial Safety and Health Act has been published with dissemination and enlightenment efforts having been made.

## **3) Preventive measures against air-borne dust**

The Ordinance on Prevention of the Risk Air-borne Dust was revised in December 2007 to strengthen preventive measures against Air-borne Dust being made at workplaces such as tunnel construction sites. In addition, the 7th Comprehensive Preventive Measures against Air-borne Dust from 2008 has been formulated and instructions on measures to be taken by business operators are being given to prevent health problems due to Air-borne Dust.

In the meantime, the Ordinance on Prevention of Hazards Due to Dust was revised to be in line in with the agreements of the “Agreement of Measures against Tunnel Dust Lung Disease” on June 18, 2007 in relation to a tunnel dust lung disease lawsuit.

## **4) Promotion of industrial healthcare activities**

Instructions are being given to business operators to assign industrial doctors and promote health committee activities. In addition, industrial healthcare promotion centers are being established in each prefecture to provide technical consultations to industrial healthcare professionals and training for industrial doctors.

Furthermore, 347 regional industrial healthcare centers have been established nationwide to support small sized workplaces with a shortage of human resources, which will provide healthcare consultation services including mental health, and industrial healthcare guidance by visiting

individual workplaces. Since FY 2006, efforts are being made by regional industrial healthcare centers in urban areas to improve the system so that healthcare consultations as well as interviews and guidance can be more conveniently provided at medical institutions near workplaces.

## **5) Creating comfortable work environments**

The Ministry has been promoting the creation of comfortable work environments through the dissemination and establishment of the “Guidance for Measures to be taken by Employers for the Creation of Comfortable Work Environments”. It also authorizes comfortable work environment promotion plans prepared by workplaces so that the safety and health standards can be enhanced, including measures to protect against exposure to tobacco smoke.

### **(4) Measures to Protect Health Disorders Caused by Chemical Substances**

#### **1) Promotion of proper management of chemical substance at workplaces**

The number of different chemical substances currently being used by Japanese industries is approximately 60,000, with more than 1,000 new types being brought into workplaces every year. A large variety of risky and hazardous properties have been discovered in them, such as flammability, carcinogenicity, acute toxicity, carcinogenicity, and reproductive toxicity.

In order to prevent industrial accidents caused by chemical substances, it is important for business operators and workers to fully understand the risk and hazardous properties of them. In consideration of this, the Industrial Safety and Health Act was revised to improve the labelling system for containers and packaging of chemical substances as well as the system for issuing documents in December 2006 so that information on the risk and hazardous properties of chemical substances is accurately provided.

In addition, instructions are being given to business operators on promoting voluntary management of chemical substances which includes implementation of measures based on “Guidelines for the Danger and Risk of Chemical Substances Surveys” utilizing the information.

#### **2) Further promotion of proper management of chemical substances based on risk assessments**

With regard to preventive measures against workers’ health problems, business operators in principle should carry out risk assessments and voluntarily manage chemical substances used at workplaces. Some small- and medium-sized enterprises, however, are yet to have taken adequate measures. And hence the government will carry out risk assessments of work that includes the risk of exposure to highly harmful chemical substances and take the appropriate measures, such as controlling chemical substances with laws and regulations, according to the degree of risk involved.

Assessment of 5 substances including epichlorohydrin was conducted in FY 2006. Among these substances, formaldehyde, 1,3-butadiene, and diethyl sulphate were assessed as being of high risk and accordingly the Order for Enforcement of Industrial Safety and Health Act was revised in December 2007.

In FY 2007, assessment was conducted on 10 substances including 2,3-epoxy-1-propanol. Based on the results, related laws and regulations will be revised with regard to nickel compounds, arsenic, and arsenic compounds that are assessed as being of high risk in the full implementation of preventive measures against workers' health problems due to chemical substances.

### **3) Appropriate implementation of measures against asbestos**

The Order for Enforcement of Industrial Safety and Health Act was revised in 2006 to completely prohibit the manufacture, import, transfer, availability, and use (hereinafter referred to as "manufacture etc.") of asbestos products (enforced in September 2006). In the mean time, prohibiting the manufacture etc of products included in the Positive List such as, in particular, the use of joint sheet gaskets in the chemical industry is being suspended because verification tests were needed in consideration of the safety of people. However, the Positive List was revised in 2007 (enforced in October 2007) to prohibit the manufacture etc. of those products for which non-asbestos alternatives are available. Further revision will also take place in the future.

With regards to preventive measures against asbestos exposure when demolishing buildings, efforts are being made to enforce measures provided in the Asbestos Problem Prevention Regulations, and the regulations will be reviewed as necessary to improve preventive measures against asbestos exposure at workplaces.

## **(5) Situation of Workers' Accident Compensation**

### **1) Situation of workers' accident compensation**

The Worker's Accident Compensation Insurance system aims at contributing to the enhanced welfare of workers. It provides insurance payments in a prompt and fair manner in order to protect workers who are suffering from injuries, diseases, disabilities or who died at work or while commuting, and also conducts welfare services to facilitate social rehabilitation of them.

The number of new recipients of Worker's Accident Compensation Insurance payments in FY 2006 decreased 1,385 from the previous year, with a total of 606,645 persons nationwide. Nationwide, 551,118 persons had suffered occupational accidents and 55,527 persons had suffered commuting accidents.

### **2) Certification for "death caused by overwork" and mental disorders**

When certifying “death caused by overwork” or mental disorders to compensate for industrial injuries, the Ministry is striving to provide a prompt and appropriate procedure for it by defining “certification standards for brain and heart diseases” and “guidelines for assessing mental disorders” (see Figure 3-2-3).

### 3) Relief of health disorders caused by asbestos

Workers who are suffering from mesothelioma or lung cancer due to handling asbestos at work and bereaved families are eligible to receive insurance payments based on the Workmen’s Accident Compensation Insurance Law (hereinafter referred to as the “Worker’s Accident Compensation Law”).

The “Act on Asbestos Health Damage Relief” was approved in February 2006 and partly enforced in March 2006. As a result, measures are being implemented where “special bereaved family benefits” are paid to anybody who lost the rights to receive the bereaved family compensation benefit based on the Worker’s Accident Compensation Law through prescription before the enforcement.

In the mean time, the “Law to Amend the Act on Asbestos Health Damage Relief” was approved in June 2008 and the application period for the special bereaved family benefit extended for 3 years to March 27, 2012. The revision also expanded the subjects of that relief by including those (bereaved families of those who died before March 27, 2006) who lose their right to receive bereaved family compensation benefits 5 years after the enforcement (the revised law will be enforced within 6 months of the date of promulgation).

Thus the Ministry of Health, Labour and Welfare is providing prompt and appropriate protection and relief for victims and their bereaved families through insurance payments based on the Worker’s Accident Compensation Law and payment of the “special bereaved family benefit”.

**Figure 3-2-3. Situation with Workers' Accident Compensation for "Death Caused by Overwork" and Mental Disorders**  
(FY 2003 to FY 2007)

|                                  |                          | 2003 | 2004 | 2005 | 2006 | 2007 |
|----------------------------------|--------------------------|------|------|------|------|------|
| "Death Caused by Overwork", etc. | Number of applications   | 742  | 816  | 869  | 938  | 931  |
|                                  | Number of certifications | 314  | 294  | 330  | 355  | 392  |
| Mental disorders, etc.           | Number of applications   | 447  | 524  | 656  | 819  | 952  |
|                                  | Number of certifications | 108  | 130  | 127  | 205  | 268  |

Source: Labour Standards Bureau, the Ministry of Health, Labour and Welfare

(Note 1) "Death caused by overwork" etc include cases where brain or heart diseases were work related (including death but excluding diseases caused by injury).

(Note 2) Mental disorders etc include cases where the mental disorder was work related (including suicide). The number of

(Note 3) applications includes the total number of cases applied for in the FY of application while the number of certified cases is not just limited to those included in the FY of application.

**(Reference 1) Situation with Compensation for Lung Cancer and Mesothelioma based on the Worker's Accident Compensation Law**

(Number of cases)

|              |                                 | FY 2005 | FY 2006 | FY 2007 |
|--------------|---------------------------------|---------|---------|---------|
| Lung Cancer  | Number of applications          | 701     | 877     | 592     |
|              | Number of payment confirmations | 213     | 783     | 501     |
| Mesothelioma | Number of applications          | 1,082   | 831     | 537     |
|              | Number of payment confirmations | 502     | 1,000   | 494     |
| Total        | Number of applications          | 1,783   | 1,708   | 1,129   |
|              | Number of payment confirmations | 715     | 1,783   | 995     |

Source: Labour Standards Bureau, the Ministry of Health, Labour and Welfare

Note: The number of applications includes the total number of cases applied for in the FY of application while the number of confirmed cases is not just limited to those included in the FY of application.

**(Reference 2) Situation with Applications and Payment Confirmations of Special Bereaved Family Benefits based on the Act on Asbestos Health Damage Relief** (Number of cases)

|                                 | FY 2006 | FY 2007 |
|---------------------------------|---------|---------|
| Number of applications          | 1,454   | 113     |
| Number of payment confirmations | 883     | 94      |

Source: Labour Standards Bureau, the Ministry of Health, Labour and Welfare

Note 1: The number of applications includes the total number of cases applied for in the FY of application while the number of confirmed cases is not just limited to those included in the FY of application.

Note 2: The number given for FY 2006 is the total number of cases for the period of March 27, 2006 to the end of March, 2007.

#### 4) Promotion of measures against concealed worker's accidents

Measures to eliminate worker's accidents being concealed include new measures made in cooperation with Social Insurance Bureaus as well as identifying and investigating any cases where worker's accidents are suspected of having been concealed, conducting appropriate supervisory guidance, and taking strict action, including judicial, if any such concealment is found.

#### (6) Labour Insurance Applications and Contribution Levy System

Applications and the contribution levy for Labour Insurance (collective term for Worker's Accident Compensation Insurance and Employment Insurance) are important activities not only with regard to payment but also in supporting the appropriate management of the overall administration from a financial point of view, and hence the reliability of the system and fairness of the cost sharing must be secured through such activities.

In principle, all business entities that employ at least 1 worker must have a labour insurance program. However, there are still quite few business operators who have not completed the procedure required to obtain labour insurance.

The "3 Year Plan to Promote Deregulation and Privatization" (decided upon by the Cabinet on March 19, 2004) clearly states the government's determination to eliminate any businesses that

have failed to complete the application procedure, even by exercising official authority. In consideration of this, the Ministry has been implementing measures to eliminate such businesses since FY 2005 in encouraging them to apply for the insurance. More specifically, any business that fails to complete the application procedure is identified in close cooperation with Prefectural Labour Bureaus, Labour Standards Inspection Offices, Hello Work, and other related organizations. They are then strongly urged to obtain labour insurance by the Japan Federation of Labor Insurance Office Work Association. Furthermore, if business entity does not complete the application procedure voluntarily, the Ministry will exercise official authority to unilaterally complete the procedure.

### 3. Promoting Comprehensive Measures for Individual Labour-Related Disputes

Labour disputes between individual workers and their employers have drastically increased, and have included dismissals, drop in working conditions, and bullying at the workplace. The increase reflects changing socio-economic conditions, restructuring of corporate organizations and individualized personnel and labour management.

Accordingly, based on the “Act on Promoting the Resolution of Individual Labor-Related Disputes”, the individual labour dispute settlement system described below has been put into practice since October 1, 2001.

- ① General labour consultation counters were set up at nearly 300 locations nationwide to offer one-stop service for use in providing advice and information in answer to any consultations on labour problems.
- ② The Directors of Prefectural Labour Bureaus offer advice and guidance to the parties concerned, point out the issues concerned and suggest the direction settlement should take.
- ③ A dispute coordination committee available in all prefectures identifies the major arguments of each disputing party and mediates in an effort to reach an agreement.

The individual labour dispute settlement system recorded the following services being available from April 2007 through to March 2008: labour-related consultation cases handled at general labour consultation counters totalled 997,237, the number of civil case consultations on individual labour-related disputes was 197,904, the number of cases settled in the scheme that provides advice and instructions by the Director of a Labour Bureau was 6,652, and the number of cases submitted to the mediation scheme provided by the dispute coordination committee was 7,146. A large number of workers and employers referred cases to the system. While continuing its efforts to publicize the system, the Ministry of Health, Labour and Welfare will further enhance operation of the system in achieving its purpose of settling individual labour-related disputes in a fair and prompt manner.