

## LABOR AND EMPLOYMENT LAW BULLETIN

---

### **Amendment to the Part-Time Employment Act of Japan**

#### **1 The amendment to the Part-Time Employment Act of Japan**

In the expectation that part-time workers (“Part-Time Workers”) will play an integral role as labor that supports the aging society with a declining birthrate in Japan, an amendment was made as of April 16, 2014 to the Act on Improvement in Management of Employment of Part-Time Workers (the “Former Act”), followed by its promulgation on April 23, 2014, with the aim of improving working conditions and other kinds of treatment of Part-Time Workers so that their status may be enhanced and stabilized. The amendment to the Former Act (the “Amended Act”) will come into force on such a day within one year from the date of promulgation as is to be fixed under a Cabinet Order. The major amendments to the Former Act are as follows:

- (1) The Amended Act stipulates a new principle concerning Part-Time Workers’ treatment.

The Amended Act provides for a new principle that differences, if any, in treatment between Part-Time Workers and regular employees should not be unreasonable in light of, among others, the details of their duties (i.e., the details of their duties and the weight of responsibility coming with them), the scope and possibility of changes in the duties, and the scope and possibility of relocation.

- (2) The Amended Act widens the scope of discriminatory treatment to be prohibited.

Employers are prohibited from discriminating certain Part-Time Workers (“Deemed Regular Employees”) from regular employees in terms of determination of wages, provision of education and training, use of welfare facilities, and other kinds of treatment. The Former Act provided that Part-Time Workers who satisfy all of the following requirements shall fall into Deemed Regular Employees:

- (a) Part-Time Workers whose duties (i.e., the details of the duties and the weight of responsibility coming with them) are same as those of regular employees;

- (b) Part-Time Workers to whom the same personnel system applies (including the likelihood that their duties will be changed or that they will be relocated) as that of regular employees, throughout the term of their employment; and
- (c) Part-Time Workers who have entered into an indefinite-term employment contract.

Under the Amended Act, the requirement (c) above is deleted. Accordingly, if any Part-Time Workers who have entered into a fixed-term employment contract satisfy the requirements (a) and (b) above, such Part-Time Workers will fall into the category of the Deemed Regular Employees, and employers are prohibited from discriminating between those Part-Time Workers and regular employees.

- (3) The Amended Act expands the scope of matters that employers are obliged to explain to newly hired Part-Time Workers.

Employers who have hired new Part-Time Workers are obliged to take certain measures for management of their employment. The Amended Act obliges employers to explain to the newly hired Part-Time Workers, promptly after the hiring, the measures that they actually take based on the abovementioned obligations (while the Former Act simply required that, at the request of Part-Time Workers, employers explain to them certain factors taken into account in determining such Part-Time Workers' treatment). Under the Amended Act, employers are obliged to explain, for example, the following matters to Part-Time Workers:

- the details of such Part-Time Workers' wage payment system, including a system for paying various allowances (e.g., the detailed differences in wage payment system between such Part-Time Workers and regular employees);
  - the details of such Part-Time Workers' opportunities, if any, to receive education and training and to use welfare facilities;
  - the details of measures, if any, to promote such Part-Time Workers' conversion to regular employees;
  - factors to be taken into account in determining and/or changing such Part-Time Workers' working hours and/or working days;
  - whether or not such Part-Time Workers will be requested to work overtime or to work on holidays; and
  - whether or not the employers have a system for resolving complaints raised by such Part-Time Workers.
- (4) The Amended Act provides for employers' new obligation to establish and maintain system for responding to consultations from Part-Time Workers.

The Amended Act obliges employers to establish and maintain a system necessary to respond appropriately to consultations from Part-Time Workers. Each employer is expected to establish and maintain such system, for example, by:

- designating a person in charge to respond to consultations; or
- acting by him/herself as a person in charge of responding to consultations.

(5) Others

Under the Amended Act, if an employer required by the Minister of Health, Labour and Welfare (the “Minister”) to make a report for the purpose of improving management of employment of Part-Time Workers fails to make a report or makes a false report, an administrative fine will be imposed on the employer. The Amended Act also provides that, if an employer who has breached any provision for a measure to improve management of employment of Part-Time Workers fails to follow the Minister’s advice to correct the breach, then the Minister may publicly announce the employer’s name.

## **2 The scope of Part-Time Workers to be covered by social insurance has expanded as a result of the amendments to the Welfare Pension Insurance Act and the Health Insurance Act**

For the purpose of eliminating certain factors causing differences in treatment between regular employees and Part-Time Workers and in the hope that the social insurance program will be supported by more Part-Time Workers, it has been determined that the social insurance will apply to certain Part-Time Workers who are not currently covered by it. In this connection, the amendments to the Welfare Pension Insurance Act and the Health Insurance Act (the “Amendments”) are scheduled to come into force on October 1, 2016.

(1) Details of the Amendments

Currently, Part-Time Workers eligible to be covered by the social insurance are limited to those (i) whose daily or weekly designated working hours equal or exceed approximately 3/4 of those of regular employees, and (ii) whose monthly designated working days equal or exceed approximately 3/4 of those of regular employees. Effective from October 1, 2016, however, social insurance will apply also to Part-Time Workers who meet all of the following requirements, in addition to those currently covered by social insurance:

- (a) Part-Time Workers whose weekly designated working hours equal or exceed 20 hours;
- (b) Part-Time Workers whose monthly wage amounts to JPY 88,000 or more (with their annual wage amounting to JPY 1,060,000 or more);
- (c) Part-Time Workers who are expected to be employed for one year or more on a continuous basis;
- (d) Part-Time Workers who are not students; and
- (e) Part-Time Workers who are employed by a company having more than 500 employees (as calculated based on the number of employees eligible to be covered by social insurance by the criteria before the Amendments).

## (2) Consequences of the Amendments

The government expects that, as a result of the Amendments, approximately 250,000 Part-Time Workers will be additionally covered by the social insurance. That being said, it is still unclear as to if the number of Part-Time Workers who will be additionally covered by the social insurance will increase as expected, for some companies may not want their social insurance premiums to increase and some Part-Time Workers may not wish to be covered by the social insurance.

For the benefit of some companies of which insurance premiums will increase as a result of an increase in the number of Part-Time Workers to be covered by the social insurance, the Amendments are expected to provide for a special interim measure to ease such companies' burden.

## 1 パートタイム労働法の改正

少子高齢化社会において今後重要な労働力となる短時間労働者(「パートタイム労働者」)につき、その労働条件その他の待遇を改善し、地位を向上・安定させるため、2014 年 4 月 16 日付で、短時間労働者の雇用管理の改善等に関する法律(「パートタイム労働法」)が改正されました(同月 23 日公布)。施行日は、公布日から起算して一年以内の政令で定める日(未定)です。主な改正事項は、以下のとおりです。

### (1) パートタイム労働者の待遇の原則を明記

パートタイム労働者の待遇を、正社員の待遇と異ならせる場合には、職務内容(業務の内容及びその業務に伴う責任の程度)、職務内容変更及び配置変更の範囲等の事情を考慮して、不合理なものであってはならないという原則が、新たに規定されました。

### (2) 差別的取扱の禁止の対象を拡大

賃金の決定、教育訓練の実施、福利厚生施設の利用、その他の待遇について、正社員と差別されてはならない対象のパートタイム労働者(「通常の労働者と同視すべき短時間労働者」)がいます。旧法では、以下のパートタイム労働者が、正社員との差別が禁止される対象となっていました。

- (あ) 職務内容(業務の内容及び責任の程度)が通常の労働者と同じ
- (い) 人材活用の仕組み(職務内容変更及び配置転換の有無など)が通常の労働者と全期間において同じ
- (う) 無期労働契約を締結している

改正により、(う)の要件が削除されました。これにより、(あ)、(い)に該当すれば、有期労働契約を締結しているパートタイム労働者も「通常の労働者と同視すべき短時間労働者」に該当し、正社員との差別的取扱いが禁止されます。

### (3) パートタイム労働者を雇い入れたときの説明義務拡大

事業主は、パートタイム労働者を雇い入れたときは、一定の雇用管理上の措置を講じなければなりません。改正法により、事業主は、これらの義務に基づき、実際に講じる措置について、雇い入れたときに、速やかにパートタイム労働者に対して説明する義務を負います。(従来は、雇い入れ後にパートタイム労働者から求められた場合に、待遇決定にあたって考慮した一定事項を説明すれば足りるとされていました。)たとえば、事業主は、次のような事項を説明することになります。

- ・ 諸手当を含む賃金制度はどのようになっているか（正社員との間にどのような違いがあるか）
- ・ どのような教育訓練や福利厚生施設の利用の機会があるか
- ・ どのような正社員転換推進措置があるか
- ・ 労働時間・労働日の決定・変更にあたり、どのような事情が考慮されるか
- ・ 時間外労働や休日労働があるか
- ・ 苦情申出を解決する制度があるか

### (4) パートタイム労働者の相談に対応するための体制整備義務の新設

改正法は、事業主に対し、パートタイム労働者からの相談に適切に対応するため、必要な体制を整備する義務を課しました。相談に対応するための体制整備の例として、次のようなものが考えられます。

- ・ 相談担当者を決め、相談に対応させる
- ・ 事業主自身が相談担当者となり、相談対応を行う

### (5) その他

パートタイム労働者の雇用管理上の改善のため、厚生労働大臣から求められた報告をしなかったり、虚偽の報告をしったりした場合は、過料に処されます。また、パートタイム労働者の雇用管理上の改善措置の規定に違反した事業主に対し、厚生労働大臣が是正勧告をした場合にもかかわらず、事業主がこれに従わなかったときは、厚生労働大臣は、事業主名を公表できることになりました。

## 2 厚生年金保険法・健康保険法の改正による短時間労働者への適用拡大

正社員とパートタイム労働者の処遇の格差の一因を廃し、かつ、パートタイム労働者にも社会保険制度を共に担ってもらうべく、これまで社会保険の適用対象外とされてきたパートタイム労働者の一部に、社会保険の適用が拡大されます。これに関する健康保険法及び厚生年金保険法の改正は、2016年10月1日から施行されます。

### (1) 改正の内容

従来は、①1日または1週間の所定労働時間が正社員の所定労働時間の概ね3/4以上で、かつ、②1か月の所定労働日数が正社員の所定労働日数の概ね3/4以上、であるパートタイム労働者のみが、社会保険に加入することができました。2016年10月1日以降は、従来からの適用対象者に加え、以下の条件を全て満たすパートタイム労働者も、社会保険の適用対象となります。

- (あ) 1週間の所定労働時間が、20時間以上あること
- (い) 月額賃金が8.8万円以上(年収が106万円以上)あること

- (う) 継続して 1 年以上雇用されることが見込まれること
- (え) 学生でないこと
- (お) 従業員数が 501 人以上の企業で雇用されていること(改正前の基準で社会保険が適用される被保険者数を基準に算定)

## (2) 改正による影響

この改正により、新たに約 25 万人のパートタイム労働者が社会保険の適用対象者となることを政府は見込んでいます。もともと、社会保険料の負担増加を避けたい企業や、適用対象となることを望まないパートタイム労働者が、それぞれ相当数存在すると思われることから、適用対象となるパートタイム労働者が実際にどの程度増えるかは、未知数です。

この改正には、適用拡大により保険料の負担が増える一部の企業について、その負担を緩和するための暫定的な特例措置が設けられる予定です。



This law bulletin is published as a general service to clients and friends and does not constitute legal advice. Should you wish to receive further information regarding the above-mentioned matters, and/or wish to consult as to whether your company is in compliance with labor/employment law, please contact:

本ニュースレターの内容は、一般的な情報提供であり、具体的な法的アドバイスではありません。お問い合わせ等ございましたら、以下の執筆弁護士までご連絡下さいますようお願い申し上げます。

Kazutoshi Kakuyama／角山 一俊（パートナー）

Direct: 81-3-6888-1036／Email: [kazutoshi.kakuyama@amt-law.com](mailto:kazutoshi.kakuyama@amt-law.com)

Hideki Thurgood Kano／嘉納 英樹（パートナー）

Direct: 81-3-6888-1061／Email: [hidekithurgood.kano@amt-law.com](mailto:hidekithurgood.kano@amt-law.com)

Yukiko Imazu／今津 幸子（パートナー）

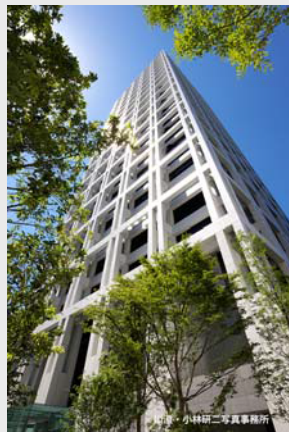
Direct: 81-3-6888-1063／Email: [yukiko.imazu@amt-law.com](mailto:yukiko.imazu@amt-law.com)

Nobuhito Sawasaki／沢崎 敦一（パートナー）

Direct: 81-3-6888-1102／Email: [nobuhito.sawasaki@amt-law.com](mailto:nobuhito.sawasaki@amt-law.com)

Yuhki Tanaka／田中 勇気（パートナー）

Direct: 81-3-6888-1173／Email: [yuhki.tanaka@amt-law.com](mailto:yuhki.tanaka@amt-law.com)



## CONTACT INFORMATION

### アンダーソン・毛利・友常法律事務所

〒107-0051

東京都港区元赤坂一丁目2番7号  
赤坂Kタワー22階（総合受付）

Tel: 03-6888-1000（代表）

Email: [inquiry@amt-law.com](mailto:inquiry@amt-law.com)

URL: <http://www.amt-law.com/>