

Japan's discretionary labor system: What you need to know



A man leaves a tailor in Tokyo's Nihombashi shopping district on Feb. 19. | AP

BY [SAKURA MURAKAMI](#) STAFF WRITER

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As Prime Minister Shinzo Abe and government officials clash with opposition lawmakers over a proposal to expand an overtime work system called the discretionary labor system, here's a look at how the system works.

What is the discretionary labor system?

It's a system that allows employers to pay workers according to a predetermined number of hours instead of actual working hours. Workers, therefore, would not be paid for overtime work that hasn't been agreed upon beforehand.

How does that work?

For instance, imagine a prearranged agreement with the employee is to work seven hours per day on weekdays. Even if the person works three hours or 10 hours on any given day, he or she will still be paid their monthly wages according to the presumption that they have worked seven hours each day.

There are certain exceptions, such as working overtime during late hours from between 10 p.m. to 5 a.m. or on holidays.

The employer and worker (or worker's union) must sign an agreement beforehand on what the predetermined number of hours should be. The agreement is then either registered or reported to local labor authorities.

What kind of employees would be subjected to the system?

Workers who fall into one of two categories:

The first is those who have specific specialties in their work, including lawyers, accountants and architects. At present, there are 19 governmentally approved fields that meet this criteria.

The second category is workers related to corporate management-related planning, research and analysis. To qualify for this category, the work must be carried out according to the employee's discretion without being directly supervised by their employer.

There are no specific fields preapproved by the labor ministry under the second category. The employer needs to obtain consent from each individual worker.

Why has it been in the news?

Abe's government plans to submit a bill that will expand the number of fields the discretionary work system will cover to include work such as solution-based sales.

The government, however, came under fire after it was revealed that a 2013 survey conducted by the Health, Labor and Welfare Ministry compared working hours between workers on discretionary labor contracts and workers on conventional contracts using different methods.

Japan has long grappled with issues of *karōshi* (death by overwork). In recent years, the government has been tackling ways to improve working conditions. The proposal for the revamped discretionary work system is part of an overhaul of the Labor Standards Law.

The two major revision proposals are the expansion of the discretionary work system and the introduction of the high-level professional workers system, which includes a proposal to exempt high earners from overtime premiums.

The new discretionary work system has been touted as a way of introducing a more flexible working style. However, critics have claimed that expansion may exacerbate the issue of overwork.