

No.19 Guarantee of Workers’ Safety/Health, and Protection of Minors/ Women (text 268-290)

1 Occupational Safety and Health

- Industrial Safety and Health Law and its outline

2 Work-Related Accident Compensation

2.1 Background and Framework of Work-Related Accident Compensation

- Historical background—points in dispute under civil law
- Existing law: coexistence of accident compensation in Labor Standards Law (infra Art. 75) and Workers' Compensation Insurance Law

2.2 Outline of Workers' Compensation Insurance System

- Government-managed insurance with compulsory participation (a special participation system also available)
- Procedure for the payment and its contents

2.3 Accreditation of “Occupational Injuries”

2.3.1 “Business-Related Injury/Death”

- “Degree of task performance”
#64
- “Degree of task causality”
 - Case of a natural phenomenon or outside force—Actualization of risk involved in a business task?

2.3.2 “Business-Related Disease ”

- Listed in the attached table no.1-2 in Ordinance for Enforcement of Labor Standards Law (Art. 75, para. (2) of Labor Standards Law, Art. 35 of Ordinance for Enforcement of Labor Standards Law)
- As for diseases in brain/heart
#65
Administrative accreditation criteria (Notification no.1063 dated Dec. 12, 2001 of Director of Labour Standards Bureau, Ministry of Health, Labour and Welfare)

2.4 Accreditation of “Accident During Travel to and from Work”

- “Travel to one's workplace” (Art. 7, para.(2) of Workers' Compensation Insurance Law, Art. 6 and 7 of Ordinance for Enforcement of the same Law)
 - “Deviation” and “interruption,” and movements thereafter (Art. 7, para. (3) of Workers' Compensation Insurance Law, Art. 8 of Ordinance for Enforcement of

the same Law)

- Case of a natural phenomenon or outside force—Actualization of risk involved in a business task?

3 Civil Action on Work-Related Accident

- ◎Relation to workers' compensation (Workers' Compensation Insurance Law)
Concurrency being possible—→Coordination: Art. 84, para.(2) of Labor Standards Law
- ◎Legal grounds
 - Unlawful act (Art. 709 of Civil Law Act)
 - Default of obligation (Art. 5 of Labor Contract Law, and Art. 1, para. (2) of Civil Law Act)
 - *Range of the obligation of security?
#68, #70
 - *What sort of precaution/ consideration must an employer assume as to overworking?
#69

4 Protection of Minors and Women

4.1 Protection of Minors

- Age limit (Art. 56 of Labor Standards Law)
- Ban on concluding a proxy contract, on receiving wages by proxy (Art. 58 and 59 of Labor Standards Law)
- Restriction on working hours and employment (infra Art.60 of Labor Standards Law)

4.2 Protection of Women

- Employment restriction on dangerous or hazardous work, and on pit work (Art. 64-3, 64-2 of Labor Standards Law)
- Leave before and after childbirth (Art. 65 of Labor Standards Law)
- Control over working hours, and childcare time (Art. 66, 67 of Labor Standards Law)
- Menstrual leave (Art. 68 of Labor Standards Law)

5 Balance between Work and Private Life

5.1 Discussion over Work-Life Balance

- Objective
- Method

5.2 Child and Family Care Leave Law

5.2.1 Childcare Leave

- ◎ Subject of those obtaining the leave
- ◎ Treatment of those obtained the leave
 - Income security during the leave (Art. 61-4 and 61-5 of Unemployment Insurance Law)
 - Ban on disadvantageous treatments (Art. 10 of Child and Family Care Leave Law)
 - *Is it permitted to reinstate one in a different job after the leave?
 - *Is it permitted to provide disadvantageous treatments?
 - Art. 9 of Equal Employment Opportunity Law for Men and Women, and Art. 10 and 16 of Child and Family Care Leave Law
 - Meaning intended by guaranteeing the rights by laws (→Public order and decency)
- ◎ Other support measures on childcare

5.2.2 Family Care Leave

- ◎ Subject of those obtaining the leave
- ◎ Treatment of those obtained the leave
 - Income security during the leave (Art. 61-7 of Unemployment Insurance Law)
 - Ban on disadvantageous treatments (Art.16 of Child and Family Care Leave Law)
- ◎ Other support measures on family care

5.2.3 Leave for Child Nursing

- ◎ Subject of those obtaining the leave (Art.16-3 of Child and Family Care Leave Law)
- ◎ Ban on disadvantageous treatments (Art.16-4 of Child and Family Care Leave Law)

5.3 Next-Generation Law

- Obligation of business proprietors in general to prepare a program for action
- Standards laid down in the ordinance of Ministry of Health, Labour and Welfare
 - Conformity accreditation
 - Grant of the accreditation insignia

RESEARCH In the wake of advancing work-life balance, what kind of character does the policy method employed in the next-generation law have? Is it appropriate as a legal policy?
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