

Features of the Japanese Industrial Safety and Health Act: some key points regarding the organization of safety and health management

Jun OJIMA¹

¹National Institute of Occupational Safety and Health, Japan

Received January 23, 2020 and accepted April 23, 2020

Published online in J-STAGE May 9, 2020

Abstract: The Japanese Industrial Safety and Health Act was first enacted in 1972. The purpose of this Act is to secure the safety and health of workers in the workplace, as well as to facilitate the establishment of a comfortable work environment. To fulfill these purposes, the Industrial Safety and Health Act aims to clarify the responsibility system in the workplace and to promote proactive efforts by both employers and employees to maintain safety and health in the workplace. Specifically, it is expected that occupational accidents will be prevented by obligating employers to appoint safety and health personnel in accordance with the Act. In this paper, I introduce the features and key points of the Industrial Safety and Health Act, especially in relation to Chapter 3 (Articles 10–19), which provides for the organization of the safety and health management system. In addition, I describe recent amendments to the Act.

Key words: Industrial physician, Labor reform law, Industrial Safety and Health Act, Occupational accident, Organization for safety and health management

Legislative Intent of The Japanese Industrial Safety And Health Act (in Lieu of an Introduction)

Occupational accidents frequently occurred in Japan in the 1960s, with more than 6,000 deaths almost every year from 1960 to 1970. A notorious example was the Mitsui Miike coal-mine explosion on 9 November 1963, which killed 458 miners and permanently injured twice as many. To accommodate the urgent social demand to reduce occupational accidents, the Japanese Industrial Safety and Health Act was separated from the existing Labor Standards Act and became an independent and more stringent law in

1972. The Industrial Safety and Health Act provides details of the obligations that employers have to ensure occupational safety and health. The Act also prescribes that the Minister of Health, Labour and Welfare should formulate an Occupational Safety & Health Program in consultation with the Labour Policy Council. As at January 2020, the 13th Occupational Safety & Health Program (2018–2022) was in place. Probably as a result of the enforcement of the Act and the subsequent increase in safety and health awareness among Japanese industries, the annual number of deaths as a result of occupational accidents has been steadily decreasing, and was down to 909 in 2018.

The current Japanese Industrial Safety and Health Act consists of 12 chapters including general provisions, miscellaneous provisions, and penal provisions. In this paper, I introduce the features and key points of the Japanese Industrial Safety and Health Act, especially in relation to

To whom correspondence should be addressed.
E-mail: ojima@h.jniosh.johas.go.jp

©2020 National Institute of Occupational Safety and Health

Chapter 3 (Articles 10–19), which provides for the organization of the safety and health management system. The configuration and functioning of the system seem to be unique to Japan.

Comparisons of The Japanese Industrial Safety and Health Act with Those of Foreign Countries

The features of occupational safety and health laws of other countries and how they differ from the Japanese Industrial Safety and Health Act are briefly described below by country¹⁾.

·The United States: The United States Occupational Safety and Health Act is considered as the first comprehensive health and safety legislation in the world. The Act requires each employer to provide for their employees a place of employment that is free from any hazards causing or likely to cause death or serious physical harm (Section 5). Notably, the United States Occupational Safety and Health Act provides principles on employer obligations, while the specifics are provided by the Occupational Safety and Health Administration (OSHA) standards that complement the Act. The advanced concept of “creating a comfortable workplace,” adopted in the Japanese Industrial Safety and Health Act, is not found in the United States Occupational Safety and Health Act.

·The UK: Like the United States, the UK’s Health and Safety at Work Act only sets out principles, leaving specifics to other regulations and the Code of Practice. According to Article 3 of the Act, it is necessary to not only protect workers but also neighboring residents and visitors, which is different from the Japanese Industrial Safety and Health Act. Another difference is that the British Code of Practice requires that some provisions be rational in accordance with social wisdom. The Code of Practice is prepared by industry associations, related companies, etc., and the administrative organization—the Health and Safety Executive (HSE)—examines and approves the validity of the Code.

·France: While voluntary management systems at work sites are a global trend, occupational health in France is strictly regulated by the law (Code du Travail). Employers are obligated to provide safety and health education for all their employees. This is a mandatory requirement for all employers, regardless of industry. All workers, irrespective of industry or company size, have a right to services offered by certified industrial physicians. The appointment and dismissal of a certified industrial physician

must be done in consultation with a corporate committee, which comprises both the employer and the employee. Each company is obliged to establish a Safety, Health and Working Conditions Committee, which formulates and implements health and safety programs. In sites where prime contractors and subcontractors work together, a comprehensive health and safety program for all workers must be developed.

·Germany: The most distinctive feature of the German Occupational Safety and Health Law (Das Neue Arbeitsschutzgesetz) is that it is intended to implement the EU Council Directive (89/391/EEC). The law requires employees to take care of their own health and safety. It also requires them to take care of their colleagues’ health and safety as much as possible. Employees are expected to use the experience and knowledge gained in their daily work to prevent occupational accidents in their workplaces. Moreover, employees have the right to evacuate their workplaces without being incriminated of any wrongdoing if they face a great danger.

Overview of Chapter 3 of The Industrial Safety and Health Act

Although employers are obliged to ensure the safety and health of their employees, the activities necessary to achieve occupational safety and health are required to be proactively carried out by the employees themselves. In most cases, occupational safety and health activities will be more successful and efficient when practiced under an organized system rather than by individual workers. Chapter 3 prescribes the appointment of various people including managers, officers, promoters, and industrial physicians who are responsible for the occupational safety and health activities at their workplaces and supervise the safety and health organization. In addition, Chapter 3 prescribes the composition and formation of the safety and health organization in detail depending on the industry category and the size of the company. Further, Chapter 3 requires a specialized safety and health system for the construction and shipbuilding industries where prime contractors and subcontractors coexist, resulting in a greater risk of accidents.

Organization of The Occupational Safety and Health Management System for General Industries

The Japanese Industrial Safety and Health Act pre-

scribes two types of safety and health management systems depending on the type of industry; general industries and other industries in which a contracting relationship exists. This section presents the management system for general industries.

General Safety and Health Manager, Safety Officer, and Health Officer (Articles 10, 11, and 12): Articles 10, 11, and 12 of Chapter 3 prescribe that the employer shall appoint a general safety and health manager, a safety officer, and a health officer for each workplace. Then, having appointed a general safety and health manager, the employer shall notify the appointment to the chief of the competent Labour Standards Inspection Office within 14 d.

The general manager is the chief executive of the safety and health department in the company. The requirements in relation to the appointment of the general manager vary depending on the number of employees. He/she shall be appointed in the following cases:

- 1) in high-risk industry (such as forestry, mining, construction, transportation, and cleaning) workplaces with 100 or more employees.
- 2) in medium-risk industry (such as manufacturing, processing, electric, gas, and water supply services, communication services, distribution, retail, and hotels) workplaces with 300 or more employees.
- 3) in low-risk industry (classified as non-industrial indoor business) workplaces with 1,000 or more employees.

Meanwhile, the safety officer and the health officer are the frontline occupational safety and health practitioners in workplaces. They are in charge of the technical operations related to occupational safety and health under the command of the general manager. In addition, they are obliged to patrol their workplace with the aim of identifying and eliminating any occupational accident risks in advance. As a general rule, a company with 50 or more employees must have one or more safety/health officers. Though safety/health officers shall be appointed from among the internal employees in principle, a licensed external consultant can be appointed depending on the conditions.

Safety and Health Promoter (Article 12-2): The occupational safety and health organization in a small company (10–49 employees) is relatively straightforward compared with that in larger companies (≥ 50 employees). Specifically, in the case of small companies, the appointment of a general safety and health manager and notification to the Labour Standard Inspection Office are unnecessary. It is prescribed that a company with 10–49 employees shall appoint a safety and health promoter in place of a safety/

health officer. Although the role of a safety and health promoter is almost identical to that of a safety/health officer, the safety and health promoter is exempt from the obligation to patrol the workplace. In addition, the number of years of experience that an employee requires to be appointed as a safety and health promoter is less than that required for appointment as a safety/health officer.

Industrial Physician (Article 13): An industrial physician is a medical doctor who is obliged to patrol the workplace at least once a month and provide health care for employees based on a contract with the employer. The usual medical examinations and treatments that a clinician provides are not part of the role of an industrial physician.

Except for companies with less than 50 employees, Article 13 prescribes that one or more industrial physicians shall be appointed in all industries based on the number of employees. For companies with less than 50 employees, Article 13-2 recommends that employee health care should be entrusted to a medical doctor or public health nurse at the nearest Occupational Health Support Center. The industrial physician shall be dedicated to his/her company in the following two cases:

- 1) the company has 1,000 or more employees
- 2) the company has 500 or more employees engaged in potentially harmful work such as underground work, extremely noisy work, late-night shifts, work with toxic substances, and work involving exposure to radiation.

The industrial physician can make recommendations regarding employee health care to the employer or the general safety and health manager, who is required to act on the industrial physician's recommendations.

To ensure the independence and fairness of the industrial physician, Article 13 guarantees the authority of the industrial physician and prevents an industrial physician from being ignored. In addition, Article 13 prohibits company representatives from assuming the role of an industrial physician.

Operations Chief (Article 14): Regardless of the number of employees, the employer is required to appoint an operations chief when employees are engaged in certain dangerous and/or potentially harmful types of work specified by a cabinet order (such as high-pressure work, acetylene welding, boiler operation, power-press machine operation, tunnel excavation, and lead handling). The operations chief is a safety and health expert responsible for preventing occupational accidents, and is in charge of planning the operational method, directing operations, and checking equipment. The operations chief must complete

“Duties of a gas welding operation chief”

ガス溶接作業主任者の職務

ガス集合装置を用いる場合

1. 作業の方法を決定し、作業を指	3. ガスの容器の取り替えの作業に
2. ガス集合装置の取り扱いに従事	4. 当該作業を開始するときは、ホ
イ. 取り付けるガスの容器の口金及	5. 安全器具は、作業中、その機能を
ロ. ガスの容器の取り替えを行なっ	6. 当該作業に従事する労働者の保
ハ. ガス漏れを点検するときは、石	7. ガス溶接作業主任者免許証を携
ニ. ハルブ又はコックの開閉を静か	

作業主任者
氏名

name field

Fig. 1. An example of a bulletin board notice.

the designated training course and be licensed by the Director of the Prefectural Labour Bureau. Once an operations chief has been appointed, the relevant employees must be advised of his/her name and area of responsibility using methods such as a bulletin board notice (Fig. 1).

Figure 2 shows the relationships among the appointments of the general safety and health manager, safety officer, health officer, industrial physician, operations chief, and safety and health promoter in general industries.

Organization of The Occupational Safety and Health Management System for The Construction and Shipbuilding Industries

In general, operations in the construction and shipbuilding industries are more dangerous than those in other industries, and hierarchical contracting relationships are common in these industries. In these cases, prime contractors and subcontractors may have their own independent safety and health management systems, which may lead to confusion and/or inefficiency in a workplace where there is a lack of coordination. Therefore, to prevent the responsibility for occupational accidents from being overlooked by all parties, a properly unified management system should be applied in the construction and shipbuilding industries.

Apart from the management system for general industries mentioned above, the Industrial Safety and Health Act provides for a specialized system for overall safety and health management in the construction and shipbuilding industries. Depending on the number of workers at a given site in the construction and shipbuilding industries, Articles 15 and 16 of the Act stipulate the appointment of an overall safety and health controller, principal safety and health supervisor, site safety and health supervisor, and safety and health controller.

Overall Safety and Health Controller (Article 15): At a construction or shipbuilding site where 50 or more workers are permanently employed, the employer of the prime contractor shall appoint an overall safety and health controller. In the case of tunnel construction, pneumatic operations, or bridge construction, this applies to sites with 30 or more permanent workers. The position of overall safety and health controller shall be occupied by a person who exercises overall control of the workplace.

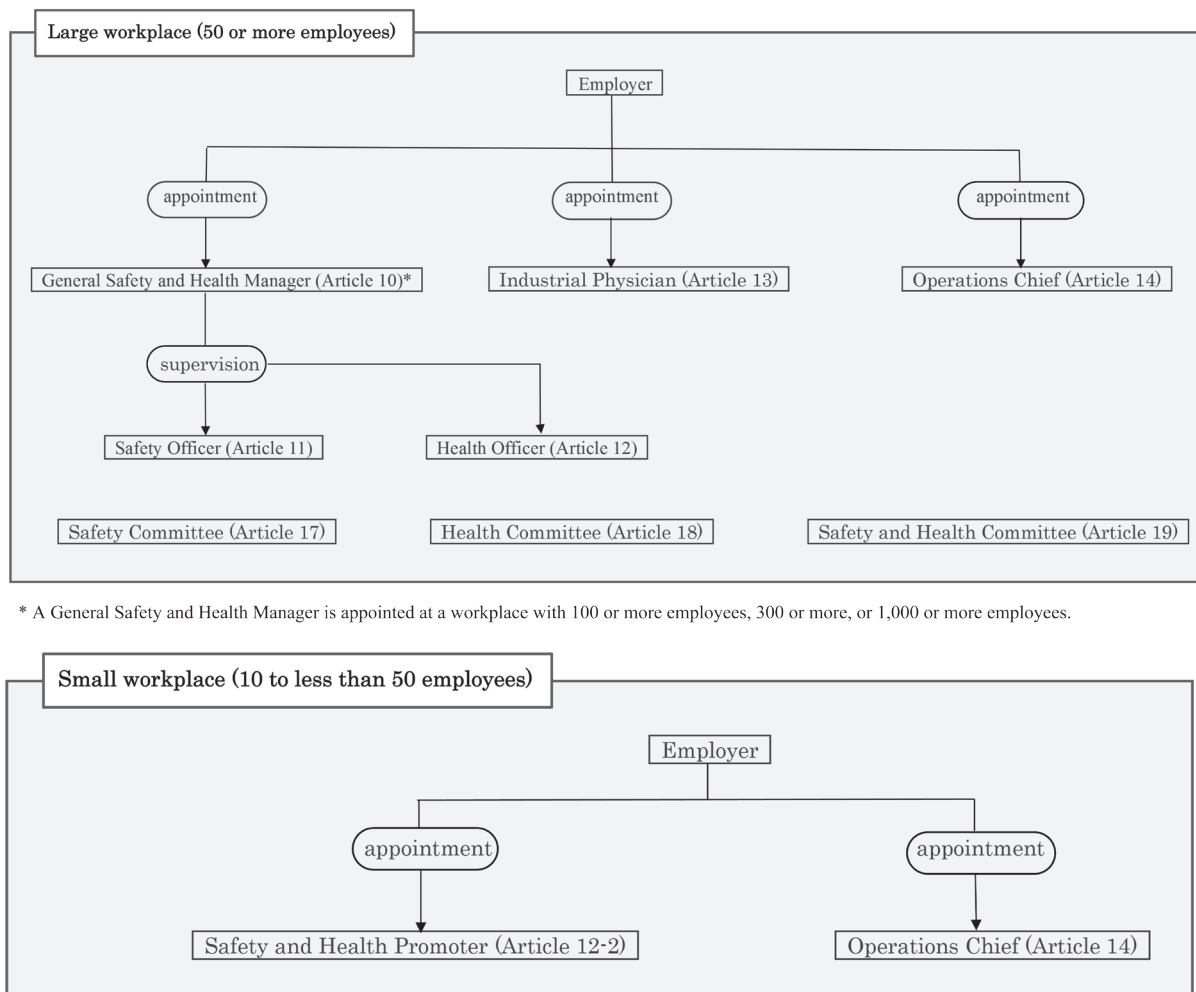
The duties of an overall safety and health controller are as follows:

- 1) supervision of a principal safety and health supervisor (see below) if required
- 2) organization and management of an occupational safety and health council
- 3) communication and coordination between operations
- 4) workplace patrol
- 5) guidance and assistance in relation to safety and health education provided by related contractors
- 6) planning of work processes and the arrangement of machines and equipment.

Once an overall safety and health controller has been appointed, the employer of the prime contractor shall notify the appointment to the chief of the competent Labour Standards Inspection Office without delay.

Principal Safety and Health Supervisor (Article 15-2): The employer of the prime contractor shall appoint a principal safety and health supervisor at construction sites where 50 or more workers are permanently employed. This does not apply to shipbuilding sites. Under the supervision of the overall safety and health controller, the principal safety and health supervisor will provide technical support for safety and health management at the construction site. Because the principal safety and health supervisor is required to be familiar with various technical matters, he/she shall meet the following requirements:

- 1) dedicated to the work site
- 2) graduate of a science university or a college of technology with at least three years of work experience



* A General Safety and Health Manager is appointed at a workplace with 100 or more employees, 300 or more, or 1,000 or more employees.

Fig. 2. Relationships among appointments of various safety and health staff in workplaces of various sizes in general industries.

in safety and health at a construction site

- 3) graduate of a junior high school or high school with at least five years of work experience in safety and health at a construction site
- 4) in addition to one of the above, approval by the Minister of Health, Labour and Welfare.

Once a principal safety and health supervisor has been appointed, the employer of the prime contractor shall notify the appointment to the chief of the competent Labour Standards Inspection Office without delay. If necessary, the Inspection Office chief may reject the appointment and order an increase or dismissal of the principal safety and health supervisor.

Site Safety and Health Supervisor (Article 15-3): Although the appointment of an overall safety and health controller is not required at small construction sites where less than 50 workers are permanently employed, the employer of the prime contractor shall appoint a site safety and health

supervisor as an alternative in such cases. More specifically, a site safety and health supervisor shall be appointed at tunnel construction sites, pneumatic operations sites, and bridge construction sites (in densely populated areas) where 20–29 employees are permanently employed. In addition, a site safety and health supervisor shall be appointed at reinforced concrete construction sites where 20–49 employees are permanently employed. A site safety and health supervisor shall be appointed from among those employees with experience in occupational safety and health.

The duties of a site safety and health supervisor are as follows:

- 1) workplace patrol (at least once a month)
- 2) understanding of the types of operations at a small construction site
- 3) management of operations at a small construction site
- 4) occasional participation in an occupational safety and health council.

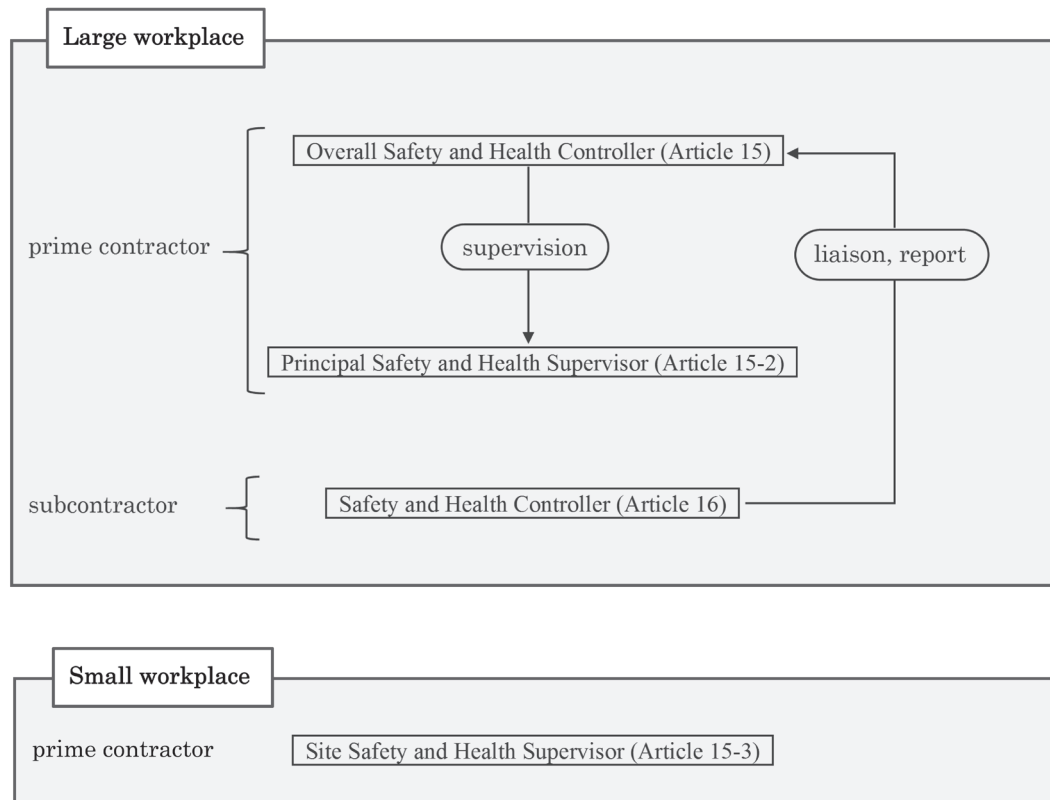


Fig. 3. Relationships among appointments of various safety and health staff in workplaces in industries where prime contractors and subcontractors coexist.

Once a site safety and health supervisor has been appointed, the employer of the prime contractor shall notify the appointment to the chief of the competent Labour Standards Inspection Office without delay.

Safety and Health Controller (Article 16): The employer of each subcontractor is required to appoint a safety and health controller at construction sites or shipbuilding sites where 50 or more workers are permanently employed.

The duties of the safety and health controller are as follows:

- 1) liaison with the overall safety and health controller
- 2) coordination of the work plan with the overall safety and health controller
- 3) liaison between the overall safety and health controller and related parties
- 4) management and execution of the overall safety and health controller's program
- 5) early detection of potential occupational accident risks
- 6) liaison and coordination with other safety and health controllers.

Once a safety and health controller has been appointed,

the employer of each subcontractor shall notify the appointment to the employer of the prime contractor.

Figure 3 shows the relationships among the appointments of the overall safety and health controller, principal safety and health supervisor, site safety and health supervisor, and safety and health controller in the construction and shipbuilding industries.

Safety Committee, Health Committee, and Safety and Health Committee

Exchange of opinions between labor and management is important in preventing occupational accidents, and Articles 17, 18, and 19 of the Industrial Safety and Health Act oblige employers to establish either a safety committee, health committee, or safety and health committee. Through these committees, the opinions of the employees will be effectively reflected in the safety and health measures undertaken by the employer. These committees must meet at least once a month and the minutes of the committee meetings must be retained for three years. The agenda for each committee meeting must be communicated to all

employees. Time spent by committee members attending these meetings is regarded as official working time. In any committee, half of the members, except the chairperson, shall be nominated by a union organized by a majority of all employees. When the company has no union, half of the members shall be nominated by a representative of the majority of the employees. The chairperson of the committee shall be the general safety and health manager (Article 10) or some other person designated by the employer from among those who supervise the overall work undertaken at the workplace.

Safety Committee (Article 17): A safety committee shall be established at work sites with 50 or more permanent employees in the following industries; forestry, mining, construction, vehicle maintenance, machine repair, cleaning, wood processing, chemical production, steel production, metal processing, transport machinery manufacturing, vehicle transportation, and marine transportation. Similarly, a safety committee shall be established at work sites with 100 or more permanent employees in the following industries; manufacturing (excluding wood processing, chemical production, steel production, metal processing and transport machinery manufacturing), transportation (excluding vehicle transportation and marine transportation), electricity/gas supply, water supply, communications, wholesaling, retailing, fuel supply, hotel, and golf course management. The committee members other than the chairperson shall be safety officers (Article 11) or people with experience in occupational safety.

The specified agenda items for a safety committee are as follows:

- 1) basic measures for preventing danger to workers
- 2) elucidation of the causes of occupational accidents and prevention of recurrences
- 3) in addition to the above, important matters pertaining to preventing danger to workers.

Health Committee (Article 18): A health committee shall be established at all worksites where there are 50 or more permanent employees in all industries. Therefore, a health committee shall be established at worksites where a safety committee is required to be established. The committee members other than the chairperson shall be health officers (Article 12), industrial physicians (Article 13), or people with experience in occupational health. In addition, licensed work environment measurement experts can sit on the committee after being nominated by the employer.

The specified agenda items for a health committee are as follows:

- 1) basic measures for preventing impairment to work-

ers' health

- 2) basic measures for maintaining and improving workers' health
- 3) elucidation of the causes of occupational accidents and prevention of recurrences
- 4) in addition to the above, important matters pertaining to preventing impairment of workers' health and maintaining and improving workers' health.

Safety and health committee (Article 19): When the establishment of both a safety committee and a health committee is deemed necessary, they can be integrated into a safety and health committee that fulfills the duties of both committees. The requirements for the appointment of the committee members are in accordance with Articles 17 and 18. The total number of committee members is at the discretion of the employer.

In companies that do not have any of the committees outlined above, the employer shall provide employees with the opportunity to express their opinions on safety and health matters.

Education of Safety Officers (Article 19-2): As work environments continue to change on a daily basis as a result of technological innovations and changes in socioeconomic conditions, new machinery and chemicals introduced to the workplace may result in unprecedented types of occupational accidents. Therefore, the people responsible for safety and health must acquire the latest information, knowledge, and skills in relation to occupational safety and health, and the employer must provide them with the educational opportunities to do so.

Article 19-2 prescribes that the employer shall endeavor to provide education and training to the safety officers (Article 11), health officer (Article 12), safety and health promoter (Article 12-2), operations chief (Article 14), and principal safety and health supervisor (Article 15-2) to enhance their ability to improve safety and health in the workplace.

State Assistance (Article 19-3): To ensure the health care of workers in workplaces where the appointment of an industrial physician is not essential, that is, companies with less than 50 employees (Article 13-2), not only the employers but also the state have a duty of care to provide health care for workers.

Article 19-3 prescribes that the state shall endeavor to provide consultation, information, and other necessary forms of support relating to health care for workers to contribute to maintaining the health of workers in the workplace.

Recent Amendments to The Industrial Safety and Health Act (in Lieu of a Conclusion)

Laws are amended as necessary in response to social changes and progress. The Industrial Safety and Health Act is no exception, having been the subject of regular amendments since it was implemented.

In recent years, the declining labor force as a result of the rapidly aging population and falling birthrate has become an urgent issue in Japan. Thus, the Japanese parliament introduced the Labor Reform Law in 2018 with the aim of changing the way in which people work in an effort to overcome labor shortages. The Labor Reform Law involved amendments of eight existing labor laws in Japan, including the Industrial Safety and Health Act. There were two main amendments in relation to the Industrial Safety and Health Act: “mandatory interview guidance for employees working excessive hours” and “clarification of the industrial physician’s duties”.

Mandatory Interview Guidance for Employees Working Excessive Hours: To avoid overlooking workers at high risk in terms of workplace health and safety as a result of either long working hours or mental health problems, the Industrial Safety and Health Act was amended to ensure that they received guidance in an interview with a doctor. Although there had previously been an interview guidance system for employees working excessive hours in Japan, the workers who were most in need of guidance were clearly identified. Following the amendment, those who met one or more of the following conditions were required to be provided with guidance at an interview by a medical doctor or an industrial physician:

- 1) a worker showing signs of fatigue whose overtime/holiday work exceeds 80 h per month
- 2) a worker engaged in R&D related to new technology, products, or services whose overtime/holiday work exceeds 100 h per month
- 3) a worker engaged in highly specialized work or achievement type labor whose total hours worked after subtracting 40 h from his/her weekly work hours exceeds 100 h per month.

To ensure that the interview guidance is provided when required, the employer must monitor the working hours of all employees using objective methods such as time card records or PC login times, and must retain the data for three years. When an employee’s overtime or holiday work exceeds 80 h per month, the employer shall notify

the employee without delay. Furthermore, under the amendment, the employer shall provide information relating to the employee’s working hours and other necessary information to an industrial physician.

Clarification of the industrial physician’s duties: Since the amendment, it has been a requirement that the industrial physician provides recommendations in relation to workers’ health to the employer or the general safety and health manager. In addition, the industrial physician is required to obtain information from workers in an interview and provide them with the necessary guidance. When the employer receives recommendations from the industrial physician, the employer is required to submit a report listing the industrial physician’s recommendations and the employer’s response to the recommendations to the safety or health committee without delay. These reports must be retained for three years. Furthermore, the industrial physician is entitled to ask the safety or health committee to investigate and discuss issues relating to workers’ health when necessary, and the employer is required to support the activities of the industrial physician. Advice to workers on how they can consult the industrial physician and the industrial physician’s duties must be disseminated to workers through documentation and bulletin boards.

If an industrial physician is dismissed, the employer shall disclose the reasons for the dismissal to the safety committee or health committee without delay to prevent the status of industrial physicians from being easily threatened.

English Translation Site

The English translation of the Japanese Industrial Safety and Health Act can be viewed at http://www.cas.go.jp/jp/seisaku/hourei/data/isha_2.pdf.

Conflicts of Interest

The author declares that there are no conflicts of interest.

References

- 1) Japan Industrial Safety & Health Association / International Center for Occupational Safety and Health Laws and regulations of each country. <https://www.jniosh.johas.go.jp/icpro/jicosh-old/japanese/topics/law/law.html#usa>. Accessed March 17, 2020.