Explanations of Labor-Related Laws

Employment Consultation Center

MHLW 厚生労働省
Ministry of Health, Labour and Welfare of Japan

Introduction

Under the National Strategic Special Zone Act (Act No. 107 of December 13, 2013), the government is supposed to provide information, consultation, advice and other forms of assistance to foreign companies and other business operators that establish a place of business and newly hire workers in a national strategic special zone. The purpose of this measure is to allow smooth implementation of businesses to enhance Japan's international industrial competitiveness or create centers of international economic activities in national strategic special zones by preventing individual labor-related disputes and taking other actions. The Act is accompanied by an additional resolution of the Diet stipulating that "the government shall provide workers with sufficient information on this Act while providing business operators with assistance for preventing individual labor-related disputes under this Act."

The Employment Consultation Center was established to provide such necessary information and assistance. The Center is expected to make it easier for newly created enterprises, global companies and others to do business without individual labor-related disputes by helping them accurately understand the employment rules of Japan and improve foreseeability. The Center is also expected to help increase the motivation and ability of workers by restricting long working hours, preventing industrial accidents and ensuring stable employment.

This booklet, which briefly explains the key points of Japan's labor-related laws, including the Labor Standards Act and the Labor Contract Act, is intended for use at the Employment Consultation Center for the purpose of giving business operators and workers advice on employment management and labor contracts.

Table of Contents

Legend

The official titles of the Acts referred to in this text are as follows. For some of them, abbreviations in the parentheses are used.

Official titles
Labor Standards Act
Regulation for Enforcement of the Labor Standards Act
Labor Contracts Act
Minimum Wage Act
Regulation for Enforcement of the Minimum Wage Act
Employment Security Act
Regulation for Enforcement of the Employment Security Act
Act on Stabilization of Employment of Elderly Persons
Rules on Labor Standards for Women
Act on Comprehensive Promotion of Labor Policies and on Stabilization of Employment and Enhancement of Vocational Lives (Labor Policies Comprehensive Promotion Act)
Regulation for Enforcement of the Act on Comprehensive Promotion of Labor Policies and on Stabilization of Employment and Enhancement of Vocational Lives (Regulation for Enforcement of the Labor Policies Comprehensive Promotion Act)
Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment (Equal Employment Opportunity Act)
Regulation for Enforcement of the Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment (Regulation for Enforcement of the Equal Employment Opportunity Act)
Act on the Promotion of Female Participation and Career Advancement in the Workplace (Female Participation Promotion Act)
Act on Childcare Leave, Caregiver Leave, and Other Measures for the Welfare of Workers Caring for Children or Other Family Members (Child Care and Family Care Leave Act)
Regulation for Enforcement of the Act on Childcare Leave, Caregiver Leave, and Other Measures for the Welfare of Workers Caring for Children or Other Family Members (Regulation for Enforcement of the Child Care and Family Care Leave Act)
Act on Improvement of Personnel Management and Conversion of Employment Status for Part-Time Workers and Fixed-Term Workers (Part-Time and Fixed-Term Workers Act)
Regulation for Enforcement of the Act on Improvement of Personnel Management and Conversion of Employment Status for Part-Time Workers and Fixed-Term Workers (Regulation for Enforcement of the Part-Time and Fixed-Term Workers Act)
Act for Securing the Proper Operation of Worker Dispatching Undertakings and Improved Working Conditions for Dispatched Workers (Worker Dispatching Act)
Order for Enforcement of the Act for Securing the Proper Operation of Worker Dispatching Undertakings and Protection of Dispatched Workers (Worker Dispatching Order)
Labor Union Act
Industrial Safety and Health Act
Regulation on Industrial Safety and Health
Act on Promoting the Resolution of Individual Labor-Related Disputes (Individual Dispute Resolution Act)
Act on Employment Promotion etc. of Persons with Disabilities

Chapter 1: Definitions of Worker and Employer

I. Definition of Worker

The Labor Standards Act defines a worker as "one who is employed at a business or office and receives wages therefrom, regardless of the type of occupation" (Article 9). In other words, a person "who is employed" and "to whom wages are paid" is a worker. The basic criteria for judging whether a person falls under the category of worker under the Labor Standards Act are as follows (generally referred to as "employment dependency").

[i] Labor is provided under the direction and supervision of an employer.

[ii] Wages are paid as compensation for labor.

Whether a person falls under a worker under the Labor Standards Act is to be judged by examining whether the employment dependency is found in substance, irrespective of the details and wording of a contract. For difficult cases, judgments need to be made by comprehensively taking into account various related factors, in addition to the form of providing labor mentioned in [i] above and the compensatory nature of wages mentioned in [ii] above.

Based on judicial precedents and rules for interpretation presented by the Ministry of Health, Labour and Welfare, the criteria for judging whether a person has the nature of being a worker under the Labor Standards Act are summarized as follows (a report by the Labor Standards Act Study Group, "Judgment Criteria for the Workers under the Labor Standards Act," December 19, 1985).

○ Judgment Criteria Concerning Employment Dependency

(1) Criteria concerning labor provided under direction and supervision

A. Whether a person has freedom to accept or reject a request for work or the engagement in work

B. Whether a person is subject to direction and supervision while performing duties

[i] Whether a person receives any concrete direction or order from the employer concerning the details of or how to perform the duties

[ii] Whether a person sometimes engages in duties other than his/her normal duties based on an order or request of the employer

C. Whether a person is subject to restrictions, such as that his/her workplace and working hours are designated and managed

D. Whether a person's labor can be substituted

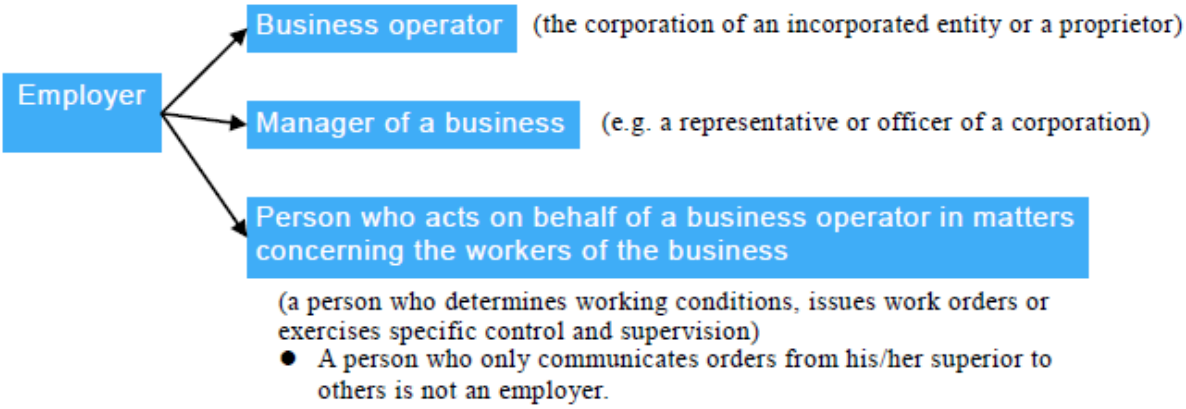
(2) Criteria concerning the compensatory nature of wages

Whether wages are judged to be compensation for a person's provision of labor for a certain period of time under the direction and supervision of the employer

* Part-Time Workers / Fixed-Term Workers

Part-time workers are workers whose regular weekly working hours are shorter than those for other ordinary workers employed at the same business establishment. Fixed-term workers are workers who have

concluded a fixed-term labor contract with an employer. The Part-Time and Fixed-Term Workers Act is applied to both categories (see "Chapter 15 Part-Time Workers and Fixed-Term Workers" for the details). Additionally, the Labor Standards Act, the Industrial Safety and Health Act, the Minimum Wage Act and other labor-related laws and regulations are also applied. For example, the provisions of the Labor Standards Act concerning labor contracts, dismissal, retirement, annual paid leave, and rules of employment are applied in the same manner as for full-time workers.



II. Definition of Employer

An employer under the Labor Standards Act (Article 10 of the same Act) is [i] a business operator, [ii] the manager of a business, and [iii] any other person who acts on behalf of a business operator in matters concerning workers in the business.

On the other hand, an employee under the Labor Contracts Act (Article 2, paragraph (2) of the same Act) is a person who is a party to a labor contract concluded with a worker and who pays wages to a worker he/she employs.

Therefore, in the case of a personal business, the owner thereof is the employer, and in the case of a company or other incorporated organization, the corporation itself is the employer.

III. Contract for Work and Mandate

1. Contract for Work

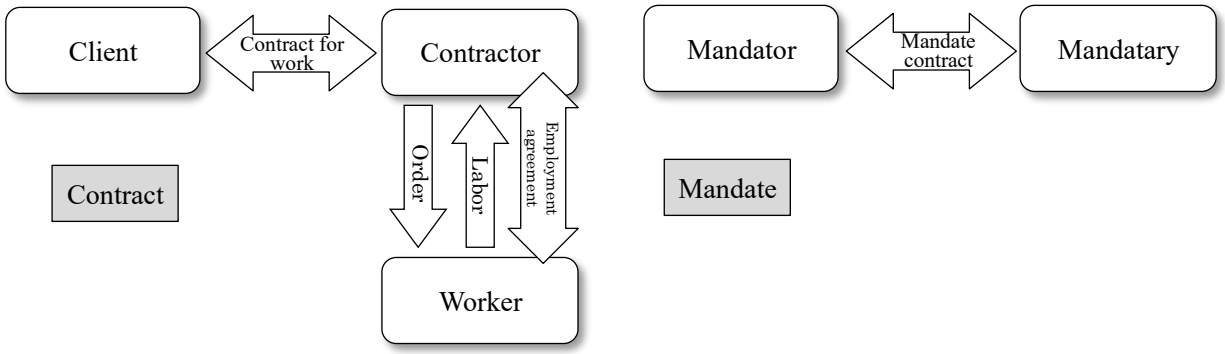
The Civil Code provides that "a contract for work shall become effective when one of the parties promises to complete work and the other party promises to pay remuneration for the outcome of the work" (Article 632). A contractor completes the work based on his/her own authority and responsibility without receiving direction or supervision from the client or employer.

Therefore, a contractor generally does not fall under the category of worker. However, even when it is a contract for work in form, if a client directly gives direction or order to the contractor or otherwise the contractor's employment dependency is substantially found, the contractor falls under the category of worker.

2. Mandate

The Civil Code also provides that "a mandate shall become effective when one of the parties mandates the other party to perform a juristic act, and the other party accepts the mandate" (Article 643). A mandatary processes the work based on his/her own knowledge and experience.

Therefore, a mandatary generally does not fall under the category of worker. However, even when it is a mandate in form, if a mandator directly gives direction or order to the mandatary or otherwise the mandatary's employment dependency is substantially found, the mandatary falls under the category of worker.



3. Consignment

In the case of a consignment, a party to a mandate of clerical work (Article 656 of the Civil Code) or a contract for work (Article 632 of the Civil Code), or a commercial agent (Article 27 of the Commercial Code and Article 16 of the Companies Act) also falls under the category of worker if the person's employment dependency is substantially found as the person and the company has a relationship as an employee and an employer and the person works under direction and order of the company.

If a person is found to be working as directed and ordered by a company (judged by comprehensively taking into account the place of work, details of the duties, working hours, required expenses, working status reports, obligations and responsibilities, any history of disadvantageous treatment and sanctions, nature of remunerations and bonuses, reports of absence from work, etc.), the person falls under the category of worker even if a written contract clearly states that it is not a labor contract but a consignment contract, and the person has given his/her consent thereto.

4. Officers

Officers of a corporation and organization are in charge of the operation of their corporation or organization as entrusted thereby and generally do not fall under the category of worker. However, when such

officer without the right to execute business or the right to represent serves as a plant manager or the like and receives wages, he/she falls under a worker to that extent.

5. Household Employees

The Labor Standards Act does not apply to household employees, in principle. However, when a person is employed by an employer who undertakes domestic work at individual households in the course of trade, and the person does domestic work under direction and order of the employer, that person does not fall under the category of household employee. The Labor Contracts Acts generally applies to all cases without any such limitation in the coverage.

6. Homeworkers

Homeworkers engage in production or processing of articles at home as entrusted by manufacturers, processors, or distributors (wholesalers, etc.) of articles or by their contractors, and gain compensation for labor. The Labor Standards Act does not apply to them. However, the Industrial Homework Act applies to the relationship between an entrustor and a homeworker thereunder and has provisions to regulate the payment of wages, etc. similar to those in the Labor Standards Act and Industrial Safety and Health Act.

Chapter 2: Recruitment

I. Working Conditions in Job-Opening Information and Actual Labor Contracts

A job offerer must clearly indicate the details of the work, wages, working hours and other working conditions as job-opening information to Hello Work or employment agencies (Article 5-3, paragraph (2) of the Employment Security Act and Article 4-2 of the Regulation for Enforcement of the Employment Security Act). When intending to recruit workers under a discretionary work system, a job offerer also needs to clarify the fact that a discretionary work system is adopted and the details of the applicable system and how to count actual working hours (No.3 of Public Notice of the Ministry of Labour No.141 of 1999).

Nevertheless, there are cases where complaints or reports are submitted to the Hello Work or Labour Standards Inspection Offices, alleging that actual working conditions are different from those indicated in recruitment slips or job ads. This type of trouble frequently occurs as both job offerers and job seekers do not clarify or complement insufficient or incorrect information in recruitment slips or job ads before hiring.

In Japan, labor contracts are often concluded orally instead of in writing, and this practice makes situations worse, ending up in he-said/she-said battles.

It is expected that job-opening information in recruitment slips coincides with actual working conditions, but such information is generally intended to attract job seekers and does not constitute a labor contract in itself. A labor contract is considered to be concluded only after a consensus on detailed working conditions is reached with an applicant through negotiations.

Accordingly, working conditions should be clarified in recruitment slips, etc. as mentioned above, but Article 15 of the Labor Standards Act provides that in concluding a labor contract, an employer should clearly indicate the wages, working hours and other working conditions to the worker by separately providing a notice of working conditions and explaining the rules of employment.

In addition, an employer is required to clearly indicate any change in the original working conditions as promptly as possible after the change is determined (Article 5-3, paragraph (3) of the Employment Security Act).

It is not necessarily required to conclude a labor contract in writing, but Article 4 of the Labor Contracts Act provides that an employer is to ensure that a worker gains an in-depth understanding of the contents of the labor contract presented to the worker and that a worker and an employer are to confirm the contents of the labor contract: whenever possible, in writing. It is preferable to put a contract in writing also from the perspective of preventing future trouble.

II. Prohibition of Restrictions and Discrimination upon Recruitment and Employment

1. Fair Screening

What is important in screening applicants is to fairly and equally evaluate them based on whether their aptitude and ability are sufficient for performing the relevant duties, without adding any other matters that are not attributable to applicants(*1) or are to be left to their discretion(*2) as conditions for employment.

The Ministry of Health, Labour and Welfare is carrying out awareness-raising activities to ensure that screening methods that may lead to employment discrimination(*3) will not be adopted.

*1 Matters that are not attributable to applicants are as follows:

[i] Matters concerning an applicant's domicile of origin and place of birth (e.g., a request for submitting a transcript or abstract of his/her family register or (a copy of) his/her resident record wherein the domicile of origin is recorded)

[ii] Matters concerning an applicant's family members' jobs, relationships, health conditions, medical histories, social statuses, academic backgrounds, income, assets, etc. (e.g., family members' jobs (whether working or not), job types, places of work, and family structure)

[iii] Matters concerning an applicant's residence (room layouts, the number of rooms, residence type, etc.) and nearby facilities (A rough map to the residence may reveal an applicant's living environment and requesting an applicant to draw such map may be considered as a background check.)

[iv] Matters concerning an applicant's living environment and family backgrounds

*2 Conditions that are to be left to applicants' discretion are as follows:

[i] Matters concerning religion

[ii] Matters concerning supported political parties

[iii] Matters concerning life philosophy and principles in life, etc.

[iv] Matters concerning respected persons

[v] Matters concerning ideas

[vi] Matters concerning social actions, such as experience related to student campaigns and labor union activities

[vii] Matters concerning favorite newspapers, magazines, books, etc.

*3 Screening methods that may lead to employment discrimination are as follows:

[i] Implementation of a background check

[ii] Use of application documents that contain items irrelevant to applicants' aptitude and ability

[iii] Implementation of medical examinations that are not objectively and reasonably necessary at the time of screening

2. Prohibition of Gender Discrimination upon Recruitment and Employment

Treating workers discriminately on the basis of sex is prohibited under the Equal Employment Opportunity Act. This Act provides that "with regard to the recruitment and employment of workers, employers must provide equal opportunities for all persons regardless of sex" (Article 5), and that "employers must not discriminate against workers on the basis of sex" with regard to assignment (including allocation of duties and granting of authority), promotion, demotion, and training of workers, a certain range of fringe benefits, change in job type and employment status of workers, and encouragement of retirement, mandatory retirement age, dismissal, and renewal of the labor contract (Article 6).

Whether a certain treatment falls under gender discrimination is specifically indicated in the Guidelines for Employers to Appropriately Deal with the Matters Prescribed in the Provisions on the Prohibition of Gender Discrimination against Workers (Notice of the Ministry of Health, Labour and Welfare No.614 of October 11, 2006). In particular, upon recruitment and employment, "acts prohibited as gender discrimination and concrete examples" and "cases not prohibited as gender discrimination" are specified as follows.

For the prohibition of discriminatory treatment on the basis of sex on other occasions, see "Chapter 11 Prohibition of Discrimination and Countermeasures against Harassment."

[Acts Prohibited as Gender Discrimination upon Recruitment and Employment and Concrete Examples]

(1) Exclude either sex from targets for recruitment and employment
  e.g., Offer jobs using job titles expressing either sex, or stating "Men welcomed" or "Job type suited to women"

(2) Set different conditions for recruitment and employment between men and women
  e.g., Set conditions only for women, such as "unmarried," "have no children," or "commute from own home"

(3) Apply different methods and criteria for judging ability and quality between men and women
  e.g., Set different acceptance criteria between men and women for a recruitment test

(4) Preferentially recruit and employ either sex
  e.g., Set (clarify) different numbers of new hires for men and women

(5) Treat men and women differently with regard to the provision of information on recruitment and employment
  e.g., Send different materials (such as corporate outlines) at different timings to men and women

[Cases not Prohibited as Gender Discrimination upon Recruitment and Employment]

(1) Jobs in the fields of art and entertainment wherein reality in expressions is required

(2) Jobs of gate keepers, security guards, etc. which need to be done by men for security reasons

(3) Jobs that should be done by either sex due to religious reasons, public morals, due to the nature of competition in sports, or due to the nature of the business

(4) Jobs for which engagement of women is restricted or prohibited under the Labor Standards Act, and jobs of midwives for which men cannot be employed under the Act on Public Health Nurses, Midwives and Nurses

(5) Cases where there are special circumstances such as where the other sex cannot exert their ability in duties in a foreign country with different traditions and customs

3. Prohibition of Indirect Discrimination upon Recruitment and Employment

Indirect discrimination is conducting an act that may substantially end up discriminating women or men even under a system that seems to be indiscriminate and ensure equal treatment for both sexes. Specifically, taking [i] a measure on the basis of matters other than sex, [ii] which is, however, considerably disadvantageous to either sex compared with the other sex, [iii] without reasonable grounds, constitutes indirect discrimination. The Equal Employment Opportunity Act prohibits three measures as specified by Order of the Ministry of Health, Labour and Welfare that are taken without reasonable grounds as indirect discrimination (Article 7). The specified three measures (Article 2 of the Regulation for Enforcement of the Equal Employment Opportunity Act) and concrete examples set forth in the abovementioned Guidelines (Notice No.614 of October 11, 2006) are shown below.

For the prohibition of discrimination on the basis of sex on other occasions, see "Chapter 11 Prohibition of Discrimination and Countermeasures against Harassment."

[Acts Prohibited as Indirect Discrimination upon Recruitment and Employment and Concrete Examples]

(1) Apply criteria concerning the worker's height, weight or physical strength upon recruitment and employment

e.g., Recruitment and employment of only applicants who satisfy certain criteria concerning height, weight or physical strength, which lack reasonable grounds

* A criterion requiring certain muscularity is considered to be unreasonable if regular work of transporting cargoes no longer requires muscularity due to the introduction of machines, etc.

(2) Apply criteria concerning the worker's ability to receive reassignment that results in the relocation of the worker's residence upon recruitment, employment, promotion or change in job type

e.g., Recruitment, employment, promotion or change in job type based on a criterion that the worker can accept reassignment accompanying the relocation of residence, which lacks reasonable grounds

* If the company has no branches covering broad areas or has no plan to expand branches covering broad areas, the abovementioned criterion is considered to be unreasonable.

(3) Apply criteria concerning the worker's experience of having been reassigned to other workplaces upon promotion

e.g., Promotion based on a criterion that the worker has experience of reassignment, which lacks reasonable grounds

* When experience at another branch is found to be not necessarily required for performing duties as managerial personnel at a certain branch, requiring such experience upon reassigning a worker to the relevant branch as managerial personnel is considered to be unreasonable.

4. Prohibition of Age Discrimination upon Recruitment and Employment

An employer is prohibited to restrict workers' age upon recruitment and employment as provided in the Labor Policies Comprehensive Promotion Act (an employer must provide workers with equal opportunities in

recruitment and employment, regardless of their age (Article 9)). However, only in cases falling under any of the following, an employer is permitted to restrict workers' age (Article 1-3, paragraph (1) of the Regulation for Enforcement of the Labor Policies Comprehensive Promotion Act).

(1) When recruiting and employing workers below the retirement age as a party to a labor contract without a fixed term up to the retirement age
(2) When a certain age limit is prescribed under the Labor Standards Act or other laws or regulations
(3) When recruiting and employing young workers as a party to a labor contract without a fixed term from the perspective of developing careers of young people through long-term service
(4) When recruiting and employing workers in a specific age bracket where workers engaged in a specific type of work are remarkably scarce as a party to a labor contract without a fixed term from the perspective of handing down skills and know-how
(5) When reality in expressions is required in the fields of art and entertainment
(6) When recruiting and employing workers by limiting applicants to elderly persons aged 60 or over, persons who went into the workforce during the economic recession and are under unstable employment or have no jobs, or persons covered under the national policy to promote employment of persons in specific age brackets (only in the case of utilizing the national policy)

Chapter 3: Labor Contracts

I. Principles of Labor Contracts

1. Basic Principles of a Labor Contract (Article 3 of the Labor Contracts Act)

○ Principle of labor-management equality (paragraph (1))

⇒ A labor contract is to be concluded or changed between a worker and an employer by agreement on an equal basis.

○ Principle of consideration of the balance of treatment (paragraph (2))

⇒ A labor contract is to be concluded or changed between a worker and an employer while giving consideration to the balance of treatment according to the actual conditions of work.

○ Principle of consideration of the balance between work and private life (paragraph (3))

⇒ A labor contract is to be concluded or changed between a worker and an employer while giving consideration to work-life balance.

○ Principle of good faith (paragraph (4))

⇒ A worker and an employer must comply with the labor contract, and must exercise their rights and perform their obligations in good faith.

○ Principle of no abuse of rights (paragraph (5))

⇒ When exercising their rights under a labor contract, a worker and an employer must not abuse such right.

2. Promotion of Understanding of the Contents of a Labor Contract (Article 4 of the Labor Contracts Act)

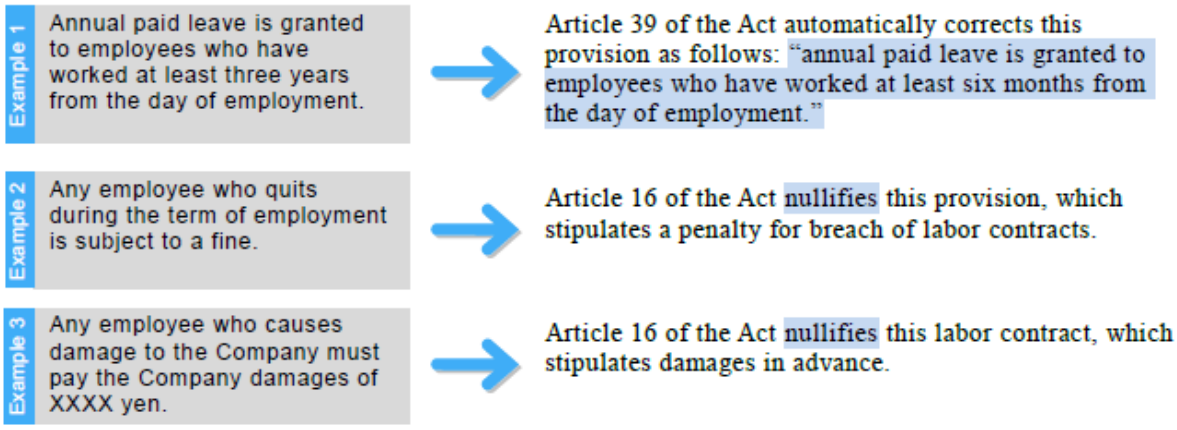
An employer is required to ensure that a worker gains an in-depth understanding of the working conditions and contents of the labor contract presented to the worker. A worker and an employer are required to confirm the contents of the labor contract, whenever possible, in writing.

3. Consideration of the Safety of a Worker (Article 5 of the Labor Contracts Act)

An employer is required to give necessary consideration so that a worker can work with the safety of life and body secured. Laws related to industrial safety and health, including the Industrial Safety and Health Act, provide for specific measures that employers must take, and these provisions must be complied with.

4. Labor Contracts Violating the Labor Standards Act (Article 13 of the Labor Standards Act)

Since the Labor Standards Act is a mandatory law, labor contracts which provide for working conditions which do not meet the standards of this Act are invalid with respect to such portion. The portions which have become invalid are to be governed by the standards of this Act.



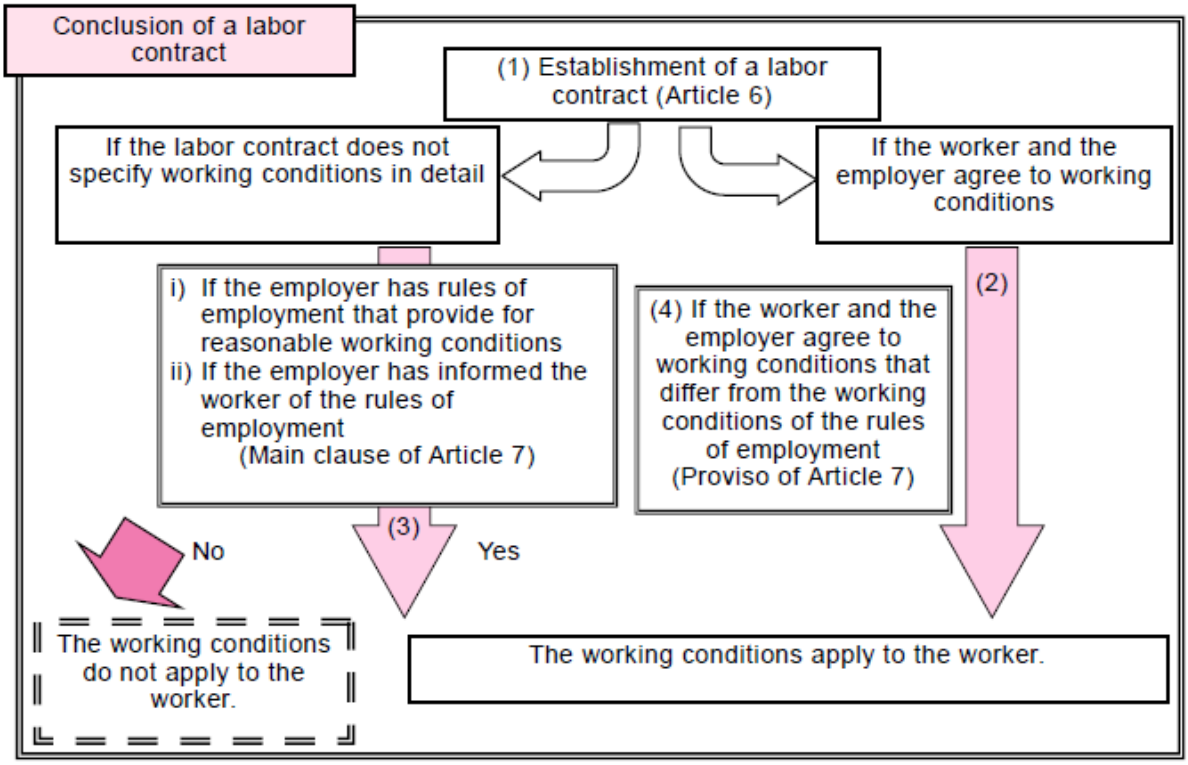
II. Establishment and Change of Labor Contracts

1. Establishment (Articles 6 and 7 of the Labor Contracts Act)

○ A labor contract is established by agreement between a worker and an employer on the basis that "the worker works by being employed by the employer" and "the employer pays wages for such work."

○ An employer does not necessarily have to deliver a document stipulating the contents of the labor contract to a worker in order to make the contract effective. Even if both parties do not agree to the details of the working conditions, the labor contract itself can become effective.

○ If an employer has "rules of employment that provide for reasonable working conditions" and "has informed the worker of those rules of employment," then "the contents of the labor contract shall be based on the working conditions provided by the rules of employment" because the working conditions of the rules of employment supplement the labor contract.



(1) A labor contract is established if a worker and an employer agree that "the worker works by being employed by the employer" and "the employer pays wages for such work."

(2) The working conditions of the worker are determined by agreement between the worker and the employer.

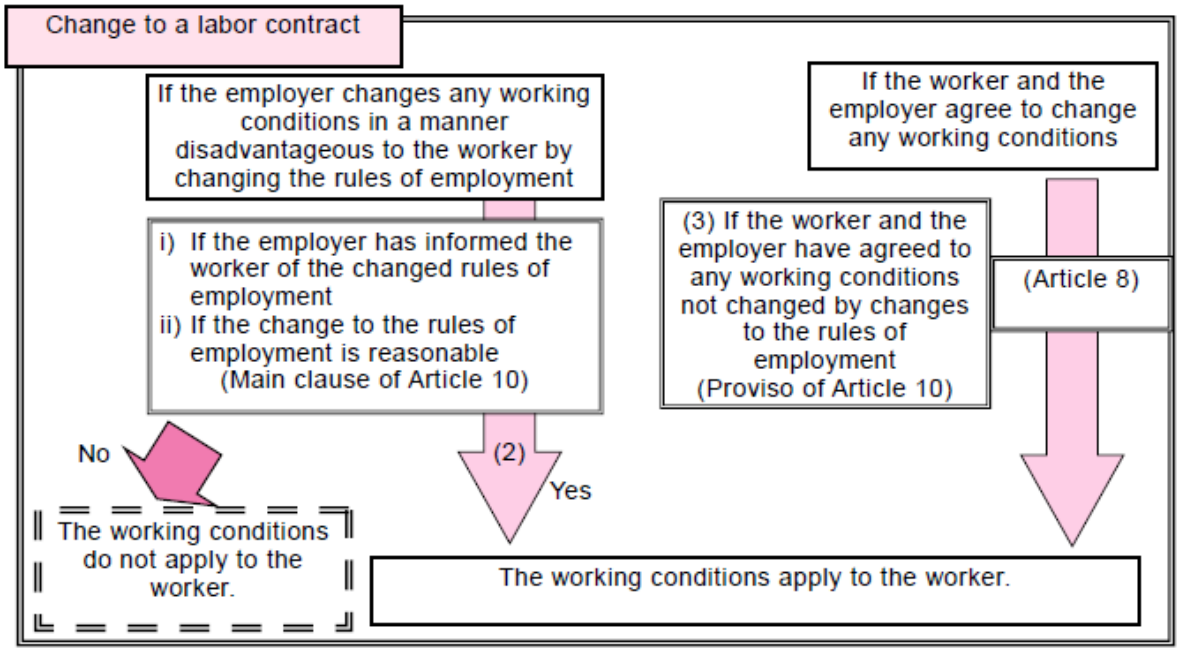
(3) If the worker is employed by the employer without detailed working conditions being provided for in the labor contract, as long as the employer has "rules of employment that provide for reasonable working conditions" and "has informed the worker of the rules of employment," then the worker shall be subject to the working conditions of the rules of employment.

(4) However, if the worker and the employer "agree on working conditions that are different from the contents of the rules of employment," the agreement takes precedence over the working conditions of the rules of employment (unless the agreed working conditions fail to meet the standards of the rules of employment).

2. Change (Articles 8, 9 and 10 of the Labor Contracts Act)

(1) Change in working conditions

- ○ "A worker and an employer" may, "by agreement," "change any working conditions that constitute the contents of a labor contract."
- ○ Making a change to a labor contract does not necessarily require the delivery of a document describing the change to the worker.
- ○ An employer may not, unless an agreement has been reached with a worker, change any of the working conditions that constitute the contents of a labor contract in a manner disadvantageous to the worker by changing the rules of employment.
- ○ However, if "the employer has informed the worker of the changed rules of employment" and if "the change to the rules of employment is reasonable," "the working conditions that constitute the contents of a labor contract are to be in accordance with the changed rules of employment," as an exception to the principle of agreement.



(1) A worker and an employer may, by agreement, change any working conditions.

(2) When changing any working conditions by changing the rules of employment, as a general rule, the employer is not allowed to change the working conditions in a manner disadvantageous to the worker. However, if the employer "has informed the worker of the changed rules of employment" and if "the change to the rules of employment is reasonable," the working conditions shall be in accordance with the changed rules of employment.

(3) However, regarding "any portion of the labor contract which the worker and the employer have agreed on as being the working conditions that are not to be changed by any change to the rules of employment," the agreement takes precedence over the changed rules of employment (unless the agreed working conditions fail to meet the standards established by the rules of employment).

(2) Judicial precedents

The Supreme Court has rendered judgments regarding the issue of whether working conditions specified in the rules of employment may be changed in a manner disadvantageous to a worker without his/her consent. Representative judgments are as follows.

[Supreme Court Judgment on the Shuhoku Bus Case rendered on December 25, 1968]

This is a leading case concerning disadvantageous changes to rules of employment. The Supreme Court ruled that it should be construed that it is not permitted in principle to unilaterally deprive workers of their established rights and impose disadvantageous working conditions by way of changing rules of employment or establishing new rules of employment, but that as long as the provisions of the rules of employment are reasonable based on the nature thereof from the perspective of collectively handling and, in particular, integrally and uniformly deciding working conditions, individual workers may not reject the application of the new or changed rules of employment on the grounds of not agreeing thereto. In this manner, the Supreme Court admitted the establishment or change of the rules of employment that unilaterally imposes disadvantageous working conditions on workers to the extent that the new or changed rules of employment remain reasonable.

[Supreme Court Judgment on the Mikuni Hire Case rendered on July 15, 1983]

The issue disputed in this case was the reasonableness of a change intended to exclude a certain period of service from the total years of service, based on which retirement allowances are calculated. The Supreme Court ruled that the change was to unilaterally impose the disadvantage that the period of service on and after August 1 of the year should be excluded from the total years of service, based on which retirement allowances are calculated, but the appellant has not presented any compensatory working conditions and therefore that the relevant change cannot be construed as reasonable. Reduction of retirement allowances without any compensatory measures was thus found to be unreasonable.

[Supreme Court Judgment on the Omagari Agricultural Cooperative Case rendered on February 16, 1988]

Regarding disadvantageous changes in wages and retirement allowances, etc., the Supreme Court ruled that a change of rules of employment or the establishment of new rules of employment that cause a substantial disadvantage in workers' working conditions, such as significant rights concerning wages and retirement allowances, etc., in particular, should be construed to be effective only when the relevant changed or newly established rules are highly necessary and it is reasonable to have the workers legally accept and endure such disadvantage.

[Supreme Court Judgment on the Takeda System Case rendered on November 25, 1983]

This is a case wherein the rules concerning menstrual leave were unilaterally changed without obtaining consent from the labor union. The Supreme Court presented the criteria for judging the reasonableness of disadvantageous changes to the rules of employment, stating that the reasonableness of a change needs to

be considered based on both the details of the change and the necessity thereof, and it is also necessary to comprehensively take into account the level of the disadvantage for the workers caused by the change, the improvement in wages made together with the change, and whether the change was necessary for the purpose of maintaining internal discipline and ensuring fair treatment among the workers to avoid abuse of the menstrual leave system under the former rules, as well as the developments of negotiations with the labor union, measures for other workers, adjustments with affiliated companies, and general circumstances concerning the menstrual leave system in Japan.

[Supreme Court Judgment on the Daishi Bank Case rendered on February 28, 1997]

In this case, the issue was whether it should be found reasonable to change the rules of employment to extend the retirement age from 55 to 60 but to reduce the wage from the age of 55 onward to 60% of that of the age of 54. The Supreme Court ruled that the reasonableness of the change should be judged by comprehensively considering the level of the disadvantage for the workers caused by the change, the details and the level of the necessity of the change on the employer's side, the appropriateness of the changed rules of employment, compensatory measures or other related improvement in working conditions, the developments of negotiations with the labor union, measures for other workers, and general circumstances concerning similar affairs in Japan. In conclusion, the Supreme Court judged the relevant change of the rules of employment as being reasonable.

[Supreme Court Judgment on the Michinoku Bank Case rendered on September 7, 2000]

In this case, the bank changed the rules of employment to improve working conditions for many of its workers, but some lost their managerial positions and their wages were reduced, and the reasonableness of the change to the rules of employment was disputed. While following the construction shown in the Daishi Bank Case, the Supreme Court concluded that the relevant change cannot be considered to be reasonable on the following grounds.

The change in the wage system in this case should be considered to result in having only workers in specific positions bear burden of reducing the total wage cost in a short term, and the burden causes a significant disadvantage to these workers, who would reach their retirement age without receiving any benefits of the improvement in working conditions solely targeting mid-career workers. When revising a system in this manner through a change of the rules of employment, appropriate relief measures, such as transitional measures to mitigate disadvantage, should be taken for those workers on whom disadvantage would be imposed unilaterally. Only having workers accept significant disadvantage without taking relief measures should be construed as lacking reasonableness.

(3) Disadvantageous changes of working conditions through revision of a collective agreement

Normative effects of a collective agreement arise even when working conditions are changed in a disadvantageous manner through the collective agreement. When a new collective agreement with disadvantageous changes of working conditions is concluded and put into force, the level of the working conditions of the relevant labor union member is changed from that defined in the former agreement to that defined in the new agreement. However, specific rights already established (such as unpaid wage after the due date) cannot be changed disadvantageously by retroactively applying a collective agreement concluded afterwards.

Nevertheless, if a collective agreement is concluded in a manner deviating from the original purpose of a labor union, such as with the aim of treating specific members or certain members especially disadvantageously, there is a case where normative effects of the collective agreement may be denied for the relevant labor union members.

In the Asahi Fire and Marine Insurance (Ishido) Case (Supreme Court Judgment on March 27, 1997), regarding a collective agreement to disadvantageously change the retirement age and calculation method of retirement allowances, it was ruled that the caused disadvantage is not small but the collective agreement cannot be found to have been concluded in a manner deviating from the original purpose of a labor union, such as with the aim of treating specific members or certain members especially disadvantageously, in light of the developments leading to the conclusion of the agreement, the financial conditions of the company at that time, and the reasonableness of the entirety of the standards defined in the agreement. The Supreme Court concluded that there are no grounds to deny the normative effects of the agreement.

On the other hand, there are judicial precedents ruling a disadvantageous change to be void, such as cases regarding [i] a collective agreement against the mandatory statute, [ii] a collective agreement against public policy (Supreme Court Judgment on the Nihon Schering Case rendered on December 14, 1989), [iii] a collective agreement with a defect in the union's authority to conclude an agreement (Tokyo High Court Judgment on the Nakane Seisakusho Case rendered on July 26, 2000), and [iv] a collective agreement resulting in significant changes unreasonably disadvantageous to some union members (Hiroshima High Court Judgment on the Tomo Tetsudo Case rendered on April 15, 2004). However, in most cases, the court respects agreements between labor and management from the perspective of labor-management autonomy and admits disadvantageous changes of working conditions through the conclusion of collective agreements.

(4) Disadvantageous changes of working conditions through an individual agreement in the absence of a collective agreement or rules of employment

In the absence of a collective agreement or rules of employment, a worker's agreement to disadvantageous changes of his/her working conditions is deemed to be effective only when reasonable grounds are objectively found to conclude that the agreement is based on the worker's free will.

As a representative judicial precedent, there is the Tokyo High Court Judgment on the Kosei-kai Mitsui Futo Case (December 27, 2000), a case regarding workers' manifestation of their will to agree to the wage reduction and deduction. Based on the idea that an individual agreement is deemed to be effective only when

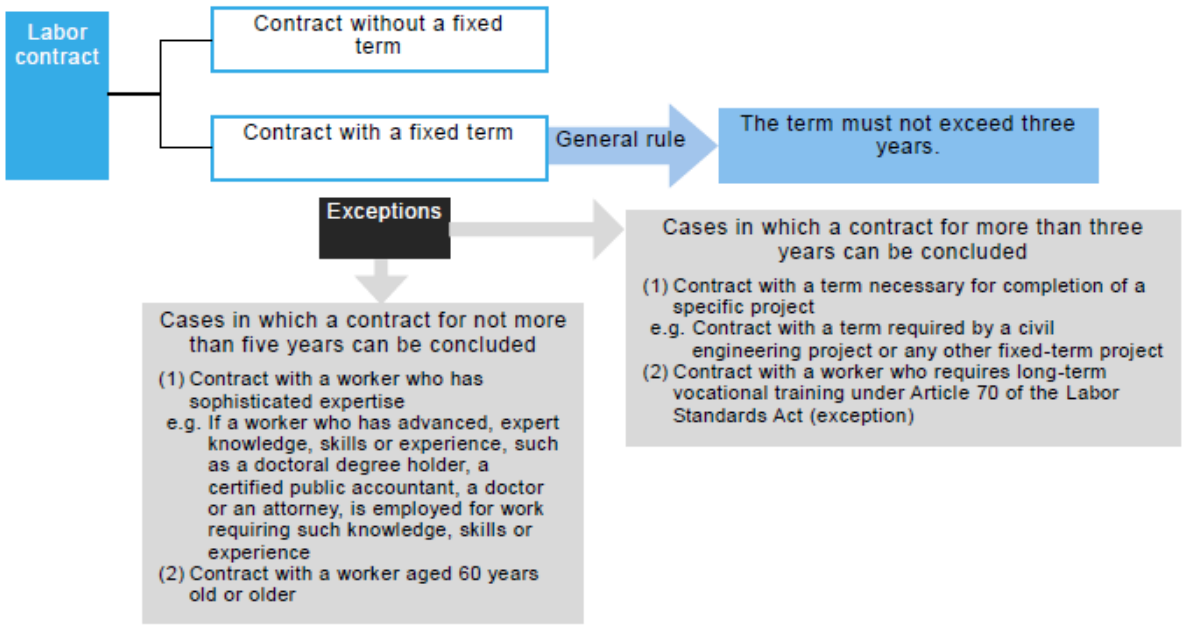
reasonable grounds are objectively found to conclude that the agreement was concluded based on the worker's free will, the court ruled that it may be possible to admit that the plaintiffs (workers) have implicitly agreed to the wage reduction on appearance but in substance they cannot be deemed to have agreed to the wage reduction based on their free will in light of the following facts: the plaintiffs have not received sufficient explanations on the grounds for the wage reduction; the company cannot be found to have explicitly requested the manifestation of the plaintiffs' will regarding whether or not to agree to the wage reduction; the plaintiffs refrained from presenting objections due to being afraid of dismissal but stated later that they were not happy with the wage deduction; and the disadvantage due to the wage reduction would not be small for the plaintiffs. In conclusion, the court ruled that the disadvantageous changes of working conditions in this case are illegal and void.

III. Term of Labor Contracts

As a fixed-term labor contract binds the worker and the employer for the relevant term, neither party is allowed to terminate the labor contract only for its own reasons without special circumstances. A worker who has concluded a fixed-term labor contract(*) may, notwithstanding the provisions of Article 628 of the Civil Code, retire at any time by notifying his/her employer on or after the day on which one year has passed since the first day of the term of his/her labor contract, until the measures stipulated in Article 3 of the Supplementary Provisions of the Act for Partially Amending the Labor Standards Act (Act No. 104 of 2003) are taken (Article 137 of the Labor Standards Act).

* A fixed-term labor contract here excludes a labor contract specifying a term required for the completion of a certain business and is limited to a labor contract for a term exceeding one year. In addition, workers who have advanced expert knowledge, etc. and workers aged 60 or older are excluded here.

The Labor Standards Act limits the terms of fixed-term labor contracts as follows (Article 14 of the Labor Standards Act)



The Ministry of Health, Labour and Welfare provides standards of measures that employers should take to prevent labor-management troubles at the time of conclusion and expiration of fixed-term labor contracts.

Standards for Conclusion, Renewal and Non-Renewal of Fixed-Term Labor Contracts

(Public Notice No.357 of the Ministry of Health, Labour and Welfare of October 22, 2003)
(Public Notice No.12 of the Ministry of Health, Labour and Welfare of January 23, 2008)
(Public Notice No.551 of the Ministry of Health, Labour and Welfare of October 26, 2012)

(Advance Notice of Non-Renewal of Employment)

Article 1 If an employer does not renew a fixed-term labor contract with a worker (limited to a worker who has had the fixed-term labor contract renewed at least three times before or has continuously worked for the employer for more than one year from the date of employment, and excluding a fixed-term labor contract in which it is made clear that the contract will not be renewed; hereinafter, the same applies in paragraph 2 of the following Article), the employer must give the worker advance notice of non-renewal at least 30 days prior to the expiration date of the labor contract.

(Clarification of Reasons for Non-Renewal of Employment)

Article 2 (1) In the case referred to in the preceding Article, if the worker requests a certificate of the reasons for non-renewal, the employer must deliver such a certificate to the worker without delay.

(2) In the event that a fixed-term labor contract is not renewed, if the worker requests a certificate of the reasons for non-renewal, the employer must deliver such a certificate to the worker without delay.

(Consideration Regarding Contract Terms)

Article 3 If an employer renews a fixed-term labor contract with a worker (limited to a worker who has had the fixed-term labor contract renewed at least once and has continuously worked for the employer for more than one year from the date of employment), the employer must endeavor to extend the contract term as long as possible according to the actual conditions of the contract and the request of the worker.

IV. Fixed-Term Labor Contracts

○ During the term of a fixed-term labor contract, an employer may not dismiss a worker unless there are unavoidable circumstances (Article 17, paragraph (1) of the Labor Contracts Act).

○ Whether an employer has unavoidable circumstances to dismiss a worker should be determined on a case-by-case basis. However, since a contract term is determined by agreement between a worker and an employer and should be complied with, dismissal during the term of a fixed-term labor contract is likely to be judged void more often than in the case of dismissal during the term of a non-fixed-term labor contract.

○ Even if a worker and an employer have agreed that the employer is allowed to dismiss the worker for a certain reason during the contract term, such reason is not immediately considered to constitute "unavoidable circumstances." Whether an employer has "unavoidable circumstances" for actual dismissal is determined on a case-by-case basis.

○ As Article 17, paragraph (1) of the Labor Contracts Act provides that "an employer may not dismiss a worker" under a fixed-term labor contract, this clause does not justify any employer's dismissal of a fixed-term worker during the term of the labor contract; such dismissal can be justified by Article 628 of the Civil Code. An employer bears the burden of proving facts showing that there are "unavoidable circumstances."

○ The Labor Contracts Act contains the following rules on fixed-term labor contracts to ensure proper use of these contracts.

I. Conversion to an open-ended labor contract (Article 18 of the Labor Contracts Act)

If a fixed-term labor contract is repeatedly renewed over a period exceeding five years, this fixed-term labor contract can be converted into an open-ended labor contract if the worker makes a request.(*)

* Special provisions are provided respectively for fixed-term workers, such as researchers and teachers, etc. of universities or research and development agencies or those with advanced expert knowledge engaged in work scheduled to be completed in a certain period of time exceeding five years, and for fixed-term workers who are continuously employed after reaching the retirement age.

II. Legal principle of non-renewal of employment (Article 19 of the same Act)

The Act has incorporated the doctrine concerning non-renewal of employment established by a judgment of the Supreme Court. If an employer's non-renewal of a fixed-term labor contract objectively lacks reasonable grounds and is not found to be appropriate in general social terms, such non-renewal is not allowed. In such a case, the employer is deemed to have accepted the worker's offer for renewal or conclusion of a fixed-term labor contract with the same working conditions as those of the previous fixed-term labor contract, and a new fixed-term labor contract comes into effect with the same working conditions.

V. Clear Indication of Working Conditions

When an employer employs a worker, the employer is required to clearly indicate wages, working hours and other working conditions to the worker by delivering a document containing such working conditions to the worker or by other similar means.

In the event that the clearly indicated working conditions are different from the actual working conditions, the worker may immediately cancel the labor contract (Article 15 of the Labor Standards Act).

* Under Article 5 of the Regulation for Enforcement of the Labor Standards Act (Order of the Ministry of Health and Welfare No.23 of 1947), the method of clearly indicating working conditions is defined to be through the delivery of a document, in principle, but if a worker requests either of the following methods, that method may be employed.

[i] A method of sending a document using facsimile

[ii] A method of sending a document by e-mail or other means of telecommunications for transmitting information by specifying a receiver (meaning telecommunications prescribed in Article 2, item (i) of the Telecommunications Business Act (Act No.86 of 1984); hereinafter referred to as "e-mail, etc.") (only for a worker who can create a document by outputting the record of the e-mail, etc.)

< Working conditions that must be clearly indicated >

Working conditions that must be clearly indicated without exception	**Matters to be clarified through the delivery of a document, etc.** (1) Term of the labor contract (2) Standards for renewing the labor contract if it is a fixed-term labor contract (3) Workplace and work engaged in (4) Starting and finishing times, whether work exceeding prescribed working hours (such as early attendance and overtime work) is required, rest periods, days off, leave, and changes in shifts in cases where workers work in two or more shifts (5) Methods of determining, calculating and paying wages and the dates for closing accounts for wages and for payment of wages (6) Retirement (including grounds for dismissal) (7) Wage raises
Working conditions that must be clearly indicated if the employer requires	(8) Scope of workers to whom the provisions concerning retirement allowances apply, methods of determining, calculating and paying retirement allowances and dates for payment of retirement allowances (9) Extraordinary wages, bonuses, etc. and minimum wages (10) Meal expenses, work supply expenses and other expenses to be borne by the worker (11) Safety and health (12) Vocational training (13) Accident compensation and support for off-the-job injuries and diseases (14) Commendations and sanctions (15) Administrative leave

○ **Working conditions to be clearly indicated in writing under the Part-Time and Fixed-Term Workers Act (Article 6 of the Part-Time and Fixed-Term Workers Act and Article 2 of the Regulation for Enforcement of the Part-Time and Fixed-Term Workers Act)**

When an employer employs a part-time or fixed-term worker, the employer is required to clearly indicate the working conditions listed below to the part-time or fixed-term worker promptly by delivering a document to the worker or by other similar means, in addition to the working conditions listed above:

- Whether wages are increased or not within the term of the labor contract
- Whether retirement allowances are paid or not
- Whether bonuses are granted or not
- Consultation service related to improvement, etc. of employment management of part-time and fixed-term workers

(For Ordinary Workers Continuously Employed for a Fixed Term)

Notice of Working Conditions

Date:

Mr./Ms.

Name and Address of the Workplace
Name of the Employer

Contract Term	Not fixed/Fixed (From to) * Fill in the section below if the contract term is "Fixed." 1 Renewal of the contract [Automatically renewed; Can be renewed; Not renewed; Other ( )] 2 Factors for deciding whether to renew the contract • Workload at the expiration of the contract term • Work performance and attitude • Competency • Business condition of the company • Progress of the assigned work • Others ( ) [For a person eligible for the special provisions under the Act on Special Measures Concerning Fixed-term Employees with Expert Knowledge and Skills Period without the right to apply for shift to a non-fixed term status: I: (advanced expert); II: (elderly person after retirement) I Period from the commencement to the completion of specified fixed-term operations (years and months (up to ten years)) II Period of being employed continuously after retirement
Place of Work	
Assigned Work	[For a person eligible for the special provisions under the Act on Special Measures Concerning Fixed-term Employees with Expert Knowledge and Skills] ・Specified Fixed-term Operations (: From to)
Starting and Finishing Times, Rest Period and Change in Shift Work (circle the applicable number from (1) to (5)), and Overtime Work	1 Starting and finishing times (1) Starting time ( ) Finishing time ( ) (If any of the following systems applies to the worker) (2) Variable working hours system, etc.: Variable working hours system or work shift system on a ( ) basis with a combination of the following working hours Starting time ( ) Finishing time ( ) (Applicable days:) Starting time ( ) Finishing time ( ) (Applicable days:) Starting time ( ) Finishing time ( ) (Applicable days:) (3) Flextime: Starting and finishing times left to the worker's discretion (Exception: Flexible time (Starting time) From to (Finishing time) From to Core time From to) (4) Deemed working hours outside the workplace: Starting time ( ) Finishing time ( ) (5) Discretionary work system: Starting and finishing times left to the worker's discretion with a basic starting time at ( ) and a basic finishing time at ( ) ○ For more details, refer to Articles to , Articles to and Articles to of the Rules of Employment. 2 Rest period: ( ) minutes 3 Overtime work (Required/Not required)
Days Off	□ Regular days off: Every ( ) (day of the week), public holidays and others ( ) □ Irregular days off: days per week or month and others ( ) □ In case of a one-year variable working hours system: days per year ○ For more details, refer to Articles to and Articles to of the Rules of Employment.
Leave	1 Annual paid leave: Working continuously for at least six months □ days Annual paid leave for working continuously for less than six months (Available/Not available) □□□□ days if the worker has worked at least months Annual paid leave on an hourly basis (Available/Not available) 2 Substitute leave (Available/Not available) 3 Other leave: Paid ( ) Unpaid ( )

	○ For more details, refer to Articles to and Articles to of the Rules of Employment.

[Continue to the following page]

Wages	1 Basic wage (a) Monthly wage (yen) (b) Daily wage (yen) (c) Hourly wage (yen) (d) Piecework wage (Basic wage: yen Guaranteed wage: yen) (e) Other wages (yen) (f) Wage classification and other wage-related matters stipulated in the Rules of Employment 2 Amounts or calculation formulas of allowances (a) (allowance yen / Calculation formula:) (b) (allowance yen / Calculation formula:) (c) (allowance yen / Calculation formula:) (d) (allowance yen / Calculation formula:) 3 Increased wage rates for overtime work, work on days off and night work (a) Overtime work: Exceeding the statutory working hours Within 60 hours per month ( ) % Over 60 hours per month ( ) % Exceeding the predetermined working hours ( ) % (b) Work on a day off: Statutory holiday ( ) % Non-statutory holiday ( ) % (c) Night work: ( ) % 4 Cutoff day: ( ): th day of every month ( ): th day of every month 5 Pay day: ( ): th day of every month ( ): th day of every month 6 Payment method: ( ) 7 Wage deduction under a labor-management agreement (Not applicable/Applicable ( )) 8 Wage raise (Available (Time, amount and other details:)/Not available) 9 Bonus (Available (Time, amount and other details:)/Not available) 10 Retirement allowance (Available (Time, amount and other details:)/Not available)
Retirement	1 Mandatory retirement system (Applicable (years old)/Not applicable) 2 Continued employment system (Applicable (until years old)/Not applicable) 3 Voluntary retirement procedure (Notification required at least days prior to retirement) 4 Grounds and procedure for dismissal ( ) ○ For more details, refer to Articles to and Articles to of the Rules of Employment.
Miscellaneous	□ Enrollment in social insurance schemes (employees' pension insurance, health insurance, employees' pension fund and other schemes ( )) □ Applicability of employment insurance (Applicable/Not applicable) □ Consultation service on employment management improvements [Department: Responsible personnel: (contact information:)] □ Others ( ) * If the contract term is "Fixed" Under Article 18 of the Labor Contracts Act, if the total term of a fixed-term labor contract (which becomes effective on or after April 1, 2013) exceeds five years, the labor contract is converted into a labor contract without a fixed term on the day following the day of expiration of the relevant fixed-term labor contract if the worker makes a request by that expiration date. When the special provisions under the Act on Special Measures Concerning Fixed-term Employees with Expert Knowledge and Skills are applicable, this five-year period is to be as indicated in the column of "Contract Term" on this notice.

* For other matters, the company's rules of employment apply.
* A Notice of Working Conditions should preferably be preserved to prevent future labor-management disputes.

[Notes]

1. A Notice of Working Conditions is to be prepared by a person who has the authority to decide the worker's working conditions and is to be delivered to the relevant worker.
   The Notice may be delivered in writing, and upon a request from a worker, means of clarifying the content through a facsimile transmission or transmission using telecommunications for transmitting information by specifying the recipient of emails, etc. (limited to a method enabling documentation by outputting data) may be employed.
2. When selecting an applicable one from multiple options, circle the relevant option.
3. Information on the matters other than those enclosed with a broken line or a double line must be clearly documented and delivered to the worker under the Labor Standards Act. Additionally, if systems are put in place regarding the matters concerning retirement allowances, extraordinary wages, etc., expenses to be borne by workers, safety and health, vocational training, accident compensation and support for off-the-job injuries and diseases, commendations and sanctions, and administrative leave, these matters must also be clearly presented to the worker orally or in writing.
4. A contract term should be within the scope specified by the Labor Standards Act.
   In the case of a fixed-term contract, whether or not to renew the contract and the criteria for renewal or non-renewal (multiple answers) should also be clarified.
   (Reference) Under Article 18, paragraph (1) of the Labor Contracts Act, if the total term of a fixed-term labor contract exceeds five years, the labor contract is converted into a labor contract without a fixed term upon a request of the worker. This right to file a request may be exercised until the expiration date of the original contract.
5. Place of work and assigned work may be the ones immediately after the employment, but it is also permitted to comprehensively indicate all places and works to which the worker may possibly be assigned in the future.
   In the case of a person eligible for the special provisions under the Act on Special Measures Concerning Fixed-term Employees with Expert Knowledge and Skills (advanced expert), the details and commencement and completion dates of the specified fixed-term operations (operations requiring expert knowledge that are scheduled to be completed within a certain period of time exceeding five years) stated in the Type-1 Plan approved under the same Act should also be stated. The commencement and completion dates of the specified fixed-term operations are not necessarily the same as the first and last dates of the fixed-term contract stated in the "Contract Term" section.
6. Specific conditions applied to the worker should be clearly indicated in the "Starting and Finishing Times, Rest Period and Change in Shift Work, and Overtime Work" section. When any of the variable working hours system, flextime system, discretionary work system, etc. is applied, the following should be noted.
   - Variable working hours system: The applicable type (on a yearly basis, a monthly basis, etc.) should be stated. If a work shift system is not applied, the part "or work shift system" should be deleted with a double line.
   - Flextime system: If a flexible time or core time is specified, the starting time and finishing time of that period should be stated, and if not, the part in the parentheses should be deleted with a double line.
   - Deemed working hours outside the workplace: The prescribed starting time and finishing time should be stated.
   - Discretionary work system: If basic starting and finishing times are not specified, the part "with a basic starting time at ( ) and a basic finishing time at ( )" should be deleted with a double line.
   - Work shift system: Starting and finishing times for each shift should be stated. If a variable working hours system is not applied, the parts "Variable working hours system or" and "on a ( ) basis" should be deleted with a double line.
7. In the "Days Off" section, the relevant days of the week or dates of regular days off should be stated.
8. Annual paid leave is granted to a worker working continuously for at least six months with the attendance rate exceeding 80% for that period, and the number of days granted as annual paid leave should be stated in the "Leave" section. Annual paid leave on an hourly basis is granted on an hourly basis under a labor-management agreement. Whether such system exists or not should be stated. Substitute leave is granted under a labor-management agreement when a worker has worked overtime in excess of 60 hours per month, in lieu of the payment of premium wages at a statutory raised premium wage rate. Whether such system exists or not should be stated (excluding small and medium-sized business operators).
   For other types of leave, specific types of paid or unpaid leave and the number of days (period, etc.) should be stated separately.
9. Regarding 6. to 8. above, if the matters to be stated are too numerous, regarding the matters except for those on overtime work, it suffices to indicate the starting and finishing times and the policy on days off for each type of jobs and to comprehensively list up the provisions of the rules of employment applicable to the relevant worker.
10. In the "Wages" section, specific amounts of basic wage, etc. should be stated. However, if the amount can be identified based on the wage classification, etc. stipulated in the rules of employment, it suffices to state the relevant classification.
    - The minimum statutory raised premium wage rate is 25% for overtime work exceeding the statutory working hours, 50% for overtime work exceeding the statutory working hours over 60 hours per month (excluding small and medium-sized business operators), 35% for work on a statutory holiday, 25% for night work, 50% for overtime work exceeding the statutory working hours at night, 75% for overtime work exceeding the statutory working hours over 60 hours per month and at night (excluding small and medium-sized business operators), and at least 60% for work on a statutory day off at night.
    - The matters enclosed with a broken line should preferably be stated if they are established as a system.
11. In the "Retirement" section, grounds and procedures for separation from employment and grounds for dismissal should be stated concretely. In this case, if the matters to be stated are too numerous, it suffices to comprehensively list up the provisions of the rules of employment applicable to the relevant worker.
    (Reference) When a mandatory retirement system is adopted, the retirement age must not be below 60.
    When the retirement age is set below 65, any of the following three measures (Measures for Securing Employment for Elderly Persons) needs to be taken for the purpose of securing stable employment up to the age of 65:
    (i) Raising the mandatory retirement age; (ii) Introducing a system to continue employment after retirement; (iii) Abolishing the provision on mandatory retirement
12. In the "Miscellaneous" section, enrollment in social insurance schemes, applicability of employment insurance, and the matters concerning expenses to be borne by workers, safety and health, vocational training, accident compensation and support for off-the-job injuries and diseases, commendations and sanctions, and administrative leave should preferably be stated if they are established as a system. In the "Consultation service on employment management improvements" section, information concerning where to accept consultations, including complaints from fixed-term workers, should be entered.
13. When working conditions are to be explained by clarifying the parts of the rules of employment applicable to the relevant worker for each of the above matters and provide him/her with the rules of employment, it is not required to concretely fill in this form.

* This is only a model format and need not necessarily be followed, depending on the method of deciding working conditions.

- Reference - Side Work and Extra Work

An increasing number of workers want to do side work or extra work in diverse forms for various reasons, but many companies do not permit employees' side work or extra work.

In light of such circumstances and the Action Plan for the Realization of Work Style Reform (decided by the Council for the Realization of Work Style Reform on March 28, 2017), the Ministry of Health, Labour and Welfare established the **Guidelines on the Promotion of Side Work and Extra Work** in January 2018 and has thus been promoting the dissemination of side work and extra work. In September 2020, a revision was made to clarify rules, such as indicating concrete methods for ascertaining workers' working hours at places for side work or extra work based on self-report, etc. and simple methods for managing workers' working hours. In July 2022, from the perspective of promoting workers' diverse career development, the ministry revised the Guidelines to encourage companies to disclose information on the status of their measures promoting side work and extra work.

This Section outlines the current systems concerning side work and extra work and summarizes the Guidelines.

1. Systems concerning Side Work and Extra Work

(1) Industrial accident compensation insurance

With regard to workers who work for multiple companies, there were problems that industrial accident compensation insurance benefits were not provided based on the amount of wages paid at all places of employment and that workloads (working hours and stress, etc.) at all places of employment were not properly evaluated in acknowledging industrial accidents.

Through the amendment of the Industrial Accident Compensation Insurance Act (Act No. 50 of 1947), the calculation method of the amount of insurance benefits for workers employed for multiple businesses of different employers (workers engaged in multiple businesses) and their bereaved families was altered from September 1, 2020 and **the amount of benefits to be provided** came to be decided **based on the amount totaling all wages paid at all places of employment**.

Additionally, in a case where an industrial accident cannot be acknowledged at one workplace but can be acknowledged **by comprehensively evaluating workloads (working hours and stress, etc.) at multiple workplaces of different employers**, a worker has come to be entitled to receive industrial accident compensation insurance benefits.

When an industrial accident occurs on the way from one place of employment to another, the accident is dealt with as **a commuting accident under the insurance relationship of said other place of employment** (Kihatsu No. 0331042 of March 31, 2006). In this case as well, the amount of insurance benefits is calculated by summing up the wage paid at the workplace where the commuting accident occurs and the amount totaling wages paid at the other workplaces.

Incidentally, with regard to injuries and diseases that were caused on or before August 31, 2020, the calculation is to be made only based on the wage paid at the workplace where the accident occurred.

(2) Employment insurance and social insurance (social pension insurance and health insurance)

A business establishment covered under the employment insurance must undertake procedures for employment insurance for any worker who will be the insured irrespective of whether he/she does side work or extra work. However, when a worker is employed by multiple employers at the same time and satisfies the requirements for employment insurance respectively under those employment relationships, employment insurance is only applicable to the **employment relationship under which the worker earns major wages necessary for maintaining a livelihood**.(*)

* On January 1, 2022, a new system was commenced under which workers aged 65 or older who work at multiple workplaces and satisfy the requirements for employment insurance when adding up all working hours at any two of those multiple workplaces may become the insured by filing an application by themselves.

Whether social insurance applies to a worker doing side work or extra work depends on whether the worker satisfies the requirements at respective workplaces.

A. When a worker does not satisfy the requirements at any workplace

Social pension insurance is not applicable. Even if the requirements are satisfied when totaling working hours at all workplaces, the eligibility is judged for each workplace, and the relevant worker will not be the insured.

B. When a worker satisfies the requirements at multiple workplaces

Social insurance applies to the worker at each of the multiple workplaces. The worker selects any of those workplaces and the pension office (medical insurer) that has jurisdiction over the selected workplace totals the wages at all workplaces and calculates and determines the worker's standard monthly remuneration amount. Each of the employers pay **their share of insurance premium decided based on the portion of the total wage that the employer pays to the worker** to the pension office (or medical insurer) that has jurisdiction over the selected workplace.

(3) Working hours

Article 38, paragraph (1) of the Labor Standards Act provides that "As far as application of the provisions on working hours is concerned, total hours worked shall be **aggregated**, **even if the hours worked were at different workplaces**." The case where the hours worked were at different workplaces includes the case where a worker worked under different employers (Kihatsu No. 769 of May 14, 1948). The Guidelines on the Promotion of Side Work and Extra Work present a primary method and a simple method of aggregating working hours based on the provisions of the same paragraph (hereinafter the simple method is referred to as the "management model"), and companies are expected to adopt a method that is easy to introduce for themselves for each of the workers doing side work or extra work (for the details of the methods of aggregating working hours, see the Guidelines on the Promotion of Side Work and Extra Work).

When aggregated hours worked by a worker doing side work or extra work exceed the statutory working hours specified in Article 32 or 40 of the Labor Standards Act, so-called non-statutory working hours arise.

(4) Measures to ensure workers' good health

General medical examinations (Article 66 of the Industrial Safety and Health Act) and stress checks (Article 66-10 of the same Act) need to also be conducted for workers doing side work or extra work.

These measures may be omitted for part-time workers whose regular working hours are below a certain level (not longer than three-quarters of regular weekly working hours of ordinary workers engaging in the same type of work) (Kihatsu-0724 No.2 of July 24, 2014, etc.). Regarding workers doing side work or extra work, it is **not necessary to aggregate** those workers' regular working hours at multiple workplaces, and the need for taking relevant measures is to be judged independently based on workers' regular working hours at each workplace.

However, it is preferable to manage the health of those workers in consideration of their side work or extra work through labor-management negotiations, in addition to taking statutory measures to ensure workers' good health.

2. Responses by Companies and Workers Regarding Side Work and Extra Work

(1) Responses by companies

Considering judicial precedents, it would be **appropriate for companies to permit employees' side work or extra work, in principle**. When permitting employees to do side work or extra work, companies need to take measures for the following matters.

A. Development of rules of employment, etc.

- ☑ Companies that prohibit employees' side work and extra work or that adopt a unified permission system should preferably review their rules of employment toward permitting employees' side work or extra work.
- ☑ In order to perform proper labor management in relation to employees' side work and extra work, it is preferable to put in place a mechanism, such as a self-report system, to confirm whether employees do side work or extra work and the content thereof.

B. Confirmation of employees' side work and extra work

- ☑ Employers, who naturally cannot know about employees' side work and extra work, are expected to confirm whether employees do side work or extra work and the content thereof based on their self-report.
- ☑ Preferably, employers should confirm the content of employees' side work and extra work from the perspective of whether relevant work would not cause damage to employees' safety and good health and whether relevant work does not fall under prohibited or restricted work under their rules.

C. (A) Aggregation of regular working hours (primary method of managing working hours)

- ☑ Based on the content of employees' side work or extra work confirmed as mentioned in B. above, each company should aggregate its employees' regular working hours at the company and those at places of side work or extra work individually and confirm whether there is any part falling under overtime work.
- ☑ As a result of the aggregation, if there is any part that exceeds the statutory working hours under the company's working hour system, that part in excess falls under overtime work. A company that has later concluded a labor contract is deemed to have the relevant worker do that overtime work as specified by its own agreement under Article 36 (see "Chapter 7 Overtime Work and Work on Days Off" for details).

(B) Introduction of the management model (simple method of managing working hours)

- ☑ It is supposed that each company requests employees doing side work or extra work follow the management model and the management model is to be introduced based on consent of employees and workplaces for side work and extra work through those employees.
- ☑ Each company should set the upper limit of working hours for respective workplaces within the range in which the number of hours totaling the statutory monthly working hours at the company and the number of monthly working hours at workplaces for side work or extra work is less than 100 hours per month and 80 hours or less on average for multiple months.

D. (A) Aggregation of working hours in excess of regular working hours (primary method of managing working hours)

- ☑ After employees commence side work or extra work, each company should aggregate the number of working hours in excess of regular working hours for respective employees in the order of those actually worked at the company and at workplaces for side work or extra work.
- ☑ As a result of the aggregation, if there is any part that exceeds the statutory working hours under the company's working hour system, that part in excess falls under overtime work. The company needs to limit the number of hours to have employees do overtime work within the upper limit for extension under its agreement under Article 36 and pay premium wages therefor.

(B) Implementation of the management model

- ☑ Each company should have its employees work within the upper limit of working hours that it has set as mentioned in C.(B) above.
- ☑ Employer A must pay premium wages for non-statutory working hours during which employees worked for Employer A, and Employer B must pay premium wages for working hours during which employees worked for Employer B.

E. Implementation of health management

- ☑ Companies should have good communication with employees to check whether employees' overwork due to side work or extra work causes any health problems or hindrance to their original duties.
- ☑ It is important for employers to take required measures to ensure employees' good health through labor-management negotiations, etc.
- ☑ When an employer gives instructions and has employees do side work or extra work, the employer should ascertain and aggregate their working hours through information exchange with respective employers of the side work or extra work and take measures to ensure employees' good health.

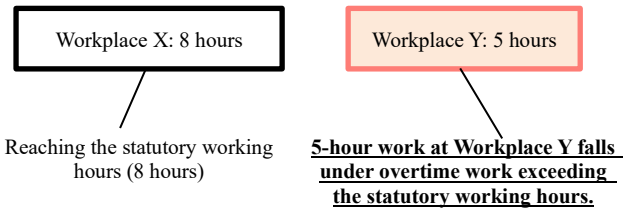
F. Disclosure of information concerning side work and extra work

- ☑ From the perspective of promoting workers' diverse career development, it is preferable for companies to publicize information such as whether they permit their workers' side work or extra work and conditions for permission if any on their websites, etc. to help workers' career choice.

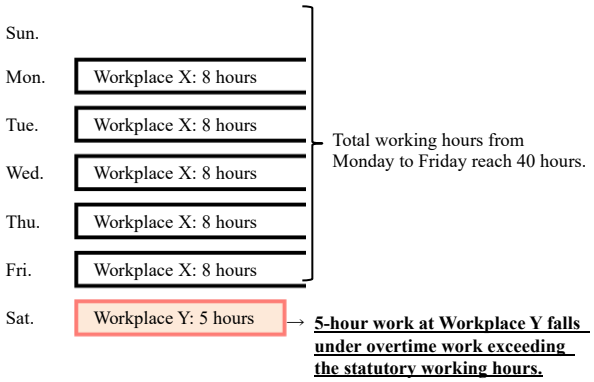
(Representative examples of aggregation of working hours (primary methods of managing working hours))

1. When a worker, who had concluded with Employer X a labor contract for eight-hour work, has newly concluded with Employer Y a labor contract for five-hour work on the same day as his/her regular working day at Workplace X, and worked at both workplaces as respectively stipulated in these labor contracts
2. When a worker, who had concluded with Employer X a labor contract for eight-hour work per day from Monday to Friday, has newly concluded with Employer Y a labor contract for five-hour work on Saturday, and worked at both workplaces as respectively stipulated in these labor contracts

1.

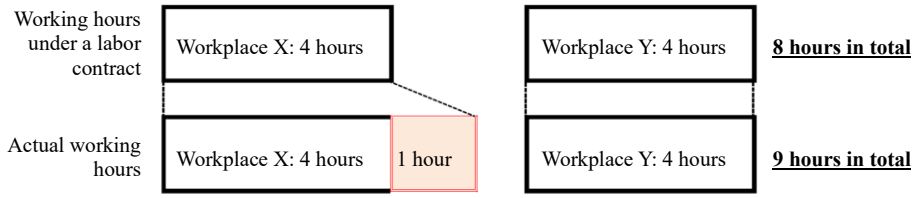


2.



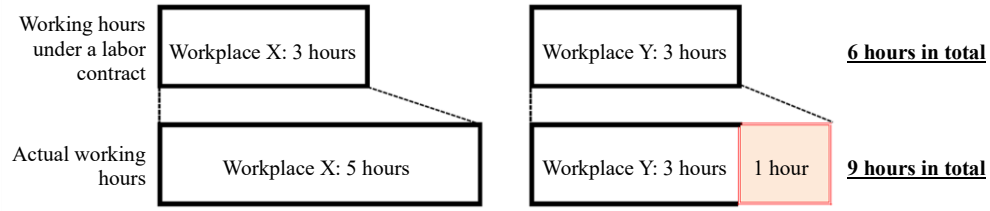
In both cases, working hours at Workplace X reach the statutory working hours per day or per week, and therefore, work hours at Workplace Y fall under non-statutory working hours.

3. When a worker, who had concluded with Employer X a labor contract for four-hour work, has newly concluded with Employer Y a labor contract for four-hour work on the same day as his/her regular working day at Workplace X, and worked five hours at Workplace X and then worked four hours at Workplace Y



As aggregated regular working hours at Workplace X and Workplace Y already reach 8 hours per day, work for hours exceeding the regular working hours at Workplace X falls under overtime work.

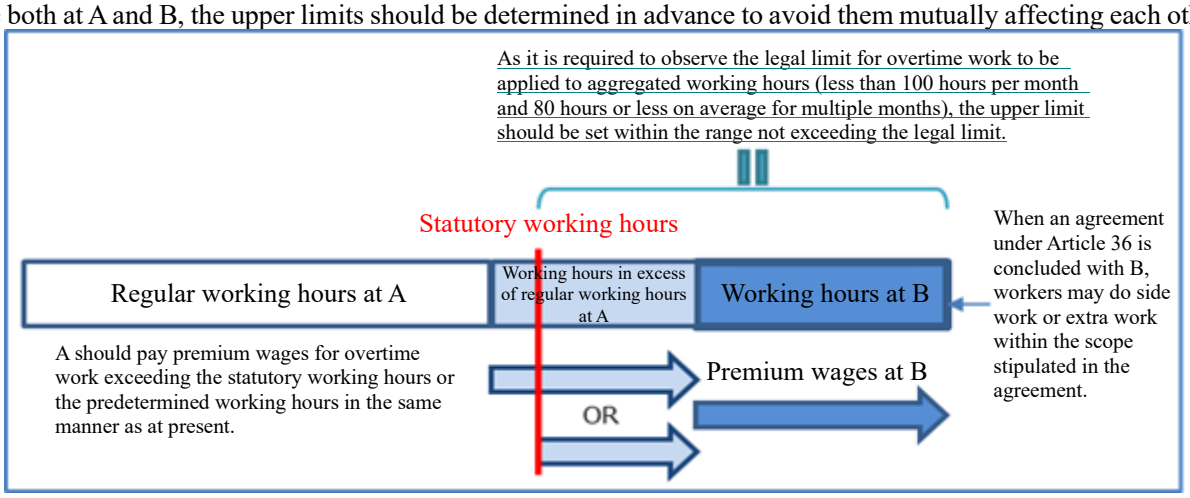
4. When a worker, who had concluded with Employer X a labor contract for three-hour work, has newly concluded with Employer Y a labor contract for three-hour work on the same day as his/her regular working day at Workplace X, and worked five hours at Workplace X and then worked four hours at Workplace Y



When the worker worked five hours (3+2 hours) at Workplace X and then worked three hours at Workplace Y, the total working hours reach the statutory daily working hours (8 hours), and the work for the last one hour at Workplace Y falls under overtime work.

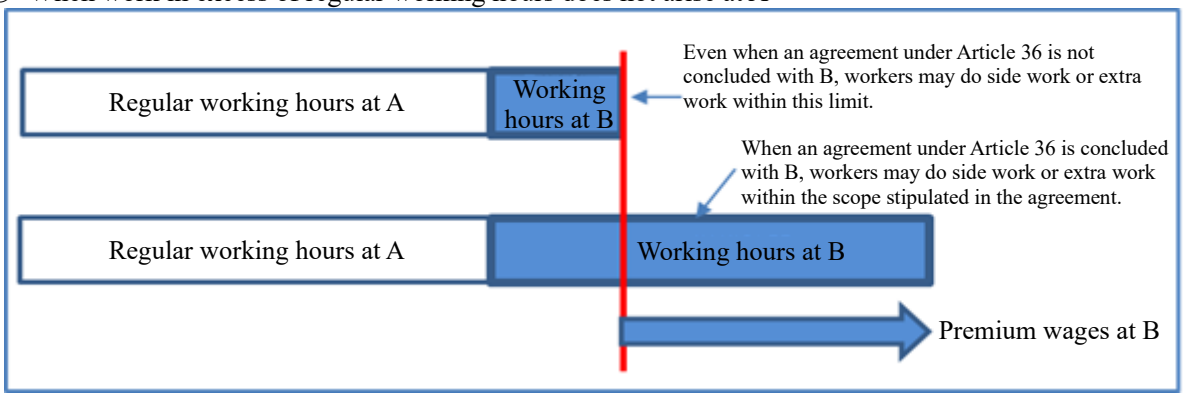
(Management models)

○ When work in excess of regular working hours arises at A (when work in excess of regular working hours may arise both at A and B, the upper limits should be determined in advance to avoid them mutually affecting each other)



* The upper limit for overtime work shown in the figure above (less than 100 hours per month and 80 hours or less on average for multiple months) is the legal limit. When aggregated working hours including those for side work or extra work exceed the statutory working hours, employers should make efforts to avoid workers' prolonged overtime work.

○ When work in excess of regular working hours does not arise at A



* The figure above shows a case where work in excess of regular working hours does not arise at A, but the same idea may also be applicable to a case where A sets the upper limit for work in excess of regular working hours within the limit of the statutory working hours.

(2) Response by workers

When intending to do side work or extra work, workers need to note the following matters.

A. Reports, etc. concerning side work or extra work

☑ A worker who intends to do side work or extra work first needs to confirm rules concerning side work and extra work of the company where he/she works.

☑ A worker who intends to do side work or extra work should then select appropriate work in terms of the content of duties and work hours in light of rules of the company where he/she works, while utilizing information on side work and extra work disclosed by the company on its website and Hello Work as needed.

☑ When a workplace for side work or extra is determined, a worker should report the content of the work to the company in line with the method specified in the rules of employment, etc.

B. Implementation of health management

☑ Upon doing side work or extra work, a worker needs to manage his/her workload including that at a workplace for side work or extra work, and the progress of and required hours for side work or extra work, as well as his/her own health conditions.

☑ From the perspective of making employers' measures to ensure employees' good health truly effective, workers should report their workloads at workplaces for side work or extra work and their own health conditions to companies.

3. Major Judicial Precedents concerning Side Work and Extra Work

Manna Unyu Case (Kyoto District Court Judgment rendered on July 13, 2012)

[Outline] A case wherein the company rejected its junior employee's applications for doing an extra part-time job four times, and the court found that the rejection of the latter two applications lacked reasonable grounds and partially upheld the claim for compensation based on an illegal act (only solatium)

[Excerpt of the judgment] Workers can freely use their time other than working hours outside the workplace and the employer must permit workers to use such time for working at another company (doing extra work), in principle. However, there may be cases where a worker's provision of labor to the original employer becomes insufficient or impossible due to extra work, or where extra work causes leakage of the original employer's business secret or otherwise disturbs operational order. Therefore, it is reasonable to construe that an employer may prohibit its workers' extra work only in such cases exceptionally by establishing the rules of employment.

Ogawa Construction Case (Tokyo District Court Judgment rendered on November 19, 1982)

[Outline] A case wherein regarding dismissal of a worker on the grounds of unpermitted extra work at a cabaret for six hours every day, the court found that the extra work was conducted late at night and exceeded the scope of a part-time job during a spare time and was highly likely to somewhat cause hindrances to the worker's sincere provision of labor to the company based on normal social conventions, and thus affirmed the validity of the dismissal

[Excerpt of the judgment] Principally, workers engage in work only for certain limited hours of the day under a labor contract and can use the rest of the day freely. Therefore, prohibiting extra work completely in the rules of employment lacks reasonableness except under special circumstances. However, (omitted) there may be cases where extra work, depending on the content thereof, disturbs a company's operational order or damages its trust or dignity, and it cannot be said that it is unjustifiable to establish a provision in the rules of employment to require workers to obtain approval of the company for their extra work, which is to be given in light of possible hindrances to their provision of labor to the company and effects on the company's operational order, etc. Therefore, the provision of Article 31, paragraph (4) of the debtor's rules of employment to the same effect is found to be reasonable.

Chapter 4: Working Hours

I. Statutory Working Hours

1. Statutory Working Hours per Week

The Labor Standards Act provides that "employers must not have workers work more than 40 hours per week, excluding rest periods" (Article 32, paragraph (1)), and statutory working hours per week are thus specified as 40 hours except for workplaces subject to special measures.

Workplaces subject to special measures refer to workplaces with fewer than 10 workers in [i] commerce, [ii] film and theatrical performance business (excluding the film-making business), [iii] health and hygiene business or [iv] entertainment business. Statutory working hours for these workplaces are specified to be 44 hours a week (Article 40 of the Labor Standards Act and Article 25-2, paragraph (1) of the Regulation for Enforcement of the Labor Standards Act).

2. Statutory Working Hours per Day

The Labor Standards Act provides that "employers must not have workers work more than 8 hours per day for each day of the week, excluding rest periods" (Article 32, paragraph (2)), and statutory working hours per day are thus specified as eight hours.

3. Examples of 40-Hour Work per Week

As mentioned above, statutory working hours are eight hours per day with one-day statutory day off per week as explained later. Therefore, for achieving 40-hour work per week, the following methods are considered: [i] to adopt a five-day work week system or [ii] to shorten regular daily working hours with a one-day statutory day off

Representative examples are as follows.

(1) A five-day work week system with eight-hour work per day

8 hours × 5 days = 40 hours per week

(2) A six-day work week system with 6 hour and 40 minute-work per day

6 hours and 40 minutes × 6 days = 40 hours per week

II. Definition of Working Hours

Working hours under the Labor Standards Act are hours during which a worker is under the direction and supervision of the employer and a worker does not necessarily need to be actually working. Therefore, a time during which a worker is not working but is ready to respond to any direction from the employer, or a so-called standby time, is included in working hours.

Regarding working hours, it has been sometimes disputed whether the time before or after performing actual duties, such as the time required for changing clothes, making arrangements, or taking a bath, etc., is included in working hours. Judgments are made from the perspective of whether the time is indispensable for the relevant

tasks and duties and whether the time is under direct control of the employer. There is a judicial precedent that the court ruled the time required for putting on or taking off workwear, safety helmet or safety shoes falls under working hours when wearing such clothes, etc. is specified in the internal rules etc. as an obligation by designating the place and time (Judgment of the First Petty Bench of the Supreme Court on Mitsubishi Heavy Industries Nagasaki Dockyard Case rendered on March 9, 2000).

Concrete approaches for cases where the coverage of working hours is disputed are as follows.

1. Change of Clothes, etc.

Regarding the time required for changing clothes, etc., there are various opinions, such as that the relevant time should be included in working hours if wearing a certain uniform during work is obliged and that changing clothes is merely a preparatory act for providing labor and the time required therefor should not be included in working hours. However, as indicated in the abovementioned judicial precedent, under special circumstances such as where the rules of employment have related provisions or where an employer especially requires workers to change to workwear, the workers are considered to be under the direction and supervision of the employer and the time required for changing clothes should be included in working hours under the Labor Standards Act.

2. Education and Training

The time to participate in education and training sessions is included in working hours under the Labor Standards Act when attendance is required with a certain punishment for absence being specified in the rules of employment or when attendance is beneficial and absence may cause disadvantage in personnel evaluation. On the other hand, in the case of education and training sessions that workers participate in of their own volition without being forced, the time required therefor is not included in working hours.

Safety and health education under the Industrial Safety and Health Act is necessary for engaging in work and is to be provided upon the responsibility of an employer, and the time required therefor is included in working hours under the Labor Standards Act.

3. Small Group Activities

The time required for small group activities is included in working hours under the Labor Standards Act when joining is required with a certain punishment for absence being specified in the rules of employment. On the other hand, the time required for optional activities that workers join of their own volition without being forced is not included in working hours under the Labor Standards Act.

4. Medical Examinations

Medical examinations include general medical examinations and special medical examinations. Special medical examinations must be conducted for performing duties and the required time is naturally included in working hours under the Labor Standards Act (see "Chapter 18, III. Health Management"). On the other hand, as general medical examinations aim to ensure workers' good health in general, the required time is not necessarily included in working hours under the Labor Standards Act, and whether or not to include it should be decided through labor-management negotiations.

5. Workers' Voluntary After-Hours Work

When an employer knows that workers voluntarily work after hours and accepts the outcome of their labor without taking any measures to stop them, the time spent for such after-hour work, even if it is voluntary, is considered to be working hours under the Labor Standards Act.

III. Variable Working Hours Systems

1. Variable Working Hours Systems

The variable working hours systems are permitted under the Labor Standards Act as exceptions to the statutory working hours (eight hours per day and 40 hours per week).

The variable working hours systems mainly consist of the following, depending on the length of base period.

(1) One-month variable working hours system (Article 32-2 of the Labor Standards Act)

(2) One-year variable working hours system (Article 32-4 of the Labor Standards Act)

(3) Flextime system (Article 32-3 of the Labor Standards Act)

2. One-month Variable Working Hours System

Under this system, an employer is allowed to require workers to work more than the statutory daily and weekly working hours on a certain day or in a certain week as long as the average weekly working hours for a certain period of not more than one month do not exceed 40 hours (or 44 hours for workplaces subject to special measures). To adopt this system, an employer must determine the following matters under the rules of employment or a labor-management agreement. The labor-management agreement must be submitted to the Director-General of the competent Labour Standards Inspection Office.

[i] Monthly working hours based on average weekly working hours for the period of variable working hours not exceeding the statutory working hours

If a period of variable working hours is one month

40 hours × Calendar days of the period of variable working hours / 7 (or 44 hours for workplaces subject to special measures)	If the number of calendar days of the month is 31 days	177.1 hours
	30 days	171.4 hours
	29 days	165.7 hours
	28 days	160.0 hours

[ii] Daily and weekly working hours for the period of variable working hours

[iii] Starting day of the period of variable working hours

(e.g.) If a one-month work shift is set for a month with 31 calendar days

(Combination of 8 working hours per day and 10 working hours per day)

Sun	Mon	Tue	Wed	Thu	Fri	Sat	
×	○	○	○	○	×	×	32 hours
×	○	○	○	×	○	×	32 hours
●	○	×	○	○	○	○	50 hours
×	×	○	○	○	○	●	42 hours
●	○	×					18 hours
							Total of 174 hours

○ = Working day (8 working hours) ● = Working day (10 working hours) × = Day off

Total working hours during this one month:
8 hours × 18 days + 10 hours × 3 days = 174 hours

For a month with 31 calendar days, the total monthly working hours must not exceed 177.1 hours. In this case, the total monthly working hours are 174 hours, so this is legal.

Form 3-2 (Re. Article 12-2-2)

Notice of Agreement on One-month Variable Working Hours System

Type of Business	Name of Business	Place of Business (Tel.)		Number of Regular Employees
Type of Work	Number of Workers (aged under 18)	Period (starting day)	Daily and Weekly Working Hours and Regular Days Off during the Period	Effective Term
Longest Daily Working Hours (workers aged under 18)	(hours minutes)	Longest Weekly Working Hours (workers aged under 18)	(hours minutes)	

Effective date of the agreement:

Name of the labor union (labor union consisting of a majority of the workers of the workplace) or name and title of a person representing a majority of the workers, who is the party to the agreement — Title: Name:

Method of selecting the party to the agreement (in the case of a person representing a majority of the workers): ( )

The labor union, which is the party to the agreement as stated above, is a labor union consisting of a majority of the workers in the workplace, or the person representing a majority of the workers, who is the party to the agreement as stated above, represents a majority of the workers. □ (Check the box.)

The person representing a majority of the workers is not in a supervisory or management position prescribed in Article 41, item (ii) of the Labor Standards Act and has been chosen not based on the intention of the employer but in accordance with the procedures, such as vote or a show of hands, after being clearly informed that a person who concludes agreements as prescribed in the same Act is to be chosen. □ (Check the box.)

MM/DD/YY

Employer Title:
Name:

To the Director-General of the Labour Standards Inspection Office

Notes

1. When applying a variable working hours system to workers aged under 18 pursuant to Article 60, paragraph (3), item (ii) of the Labor Standards Act, the information regarding them should be stated in the parentheses in each of the "Number of Workers," "Longest Daily Working Hours," and "Longest Weekly Working Hours" sections.
2. In the "Period" section, state the length of the base period for totaling working hours and the starting day of that period in the parentheses.
3. When all matters cannot be stated within the space of the "Daily and Weekly Working Hours and Regular Days Off during the Period" section, state them on a separate piece of paper and attach it to this form.
4. The agreement must be concluded with the labor union if there is one consisting of a majority of the workers, or with the person representing a majority of the workers if there is no labor union consisting of a majority of the workers. Pursuant to the provisions of Article 6-2, paragraph (1) of the Regulation for Enforcement of the Labor Standards Act, the person representing a majority of the workers must not be in a supervisory or management position prescribed in Article 41, item (ii) of the Labor Standards Act and must be one who has been chosen not based on the intention of the employer but in accordance with the procedures, such as vote or a show of hands, after being clearly informed that a person who concludes agreements as prescribed in the same Act is to be chosen. It should be noted that the agreement is not valid if these requirements are not satisfied. It should also be noted that even if these requirements are satisfied, if the relevant checkboxes are not checked, the document fails to conform to the requirements for formality as a notice.
5. When making the agreement with this form, it should be noted that the agreement should be concluded by a method to clarify the fact that the labor and management, the parties, both reached a deal.

3. One-year Variable Working Hours System

Under this system, an employer is allowed to require workers to work more than the statutory daily or weekly working hours on a certain day or in a certain week as long as the average weekly working hours for a certain period (exceeding one month but not exceeding one year) do not exceed 40 hours. The upper limits for daily working hours and weekly working hours are defined.

(1) Requirements for adopting a one-year variable working hours system

A. Limitation on the length of the applicable period

The title of the system is the one-year variable working hours system, but the applicable period can be set within the length exceeding one month but not exceeding one year, such as three months, four months, or six months.

B. Limitation on the length of regular working hours during the period

[i] Total regular working hours during the period

The average weekly working hours for the applicable period not exceeding one year must be 40 hours or less (also for a workplace subject to special measures, the maximum weekly working hours on average under this system must be 40 hours, not 44 hours).

In order to satisfy the relevant requirements, the total regular working hours during the period must be within the number of hours calculated as follows

$$\text{Regular working hours during the period} \leqq 40 \text{ hours} \times \frac{\text{Number of days in the period}}{7}$$

According to this formula, the total regular working hours during the period are as follows. The number of days in the period differs depending on the method of setting the applicable period.

Length of the period	Total regular working hours
1 year (365 days)	2,085.7 hours
6 months (183 days)	1,045.7 hours
4 months (122 days)	697.1 hours
3 months (92 days)	525.7 hours

(Note) Fractions should be left as they are or be rounded off.

[ii] Limits of daily and weekly working hours (Article 12-4 of the Regulation for Enforcement of the Labor Standards Act)

Even if the average weekly working hours for a year remain within 40 hours, if regular working hours on a specific day are 14 hours or 15 hours or regular working hours for a specific week are 70 hours, or otherwise a worker is subject to such labor obligations constantly, this may hinder the worker's daily life and may affect his/her health. Additionally, such practices may be employed in an abusive manner as a means to avoid the payment of premium wages.

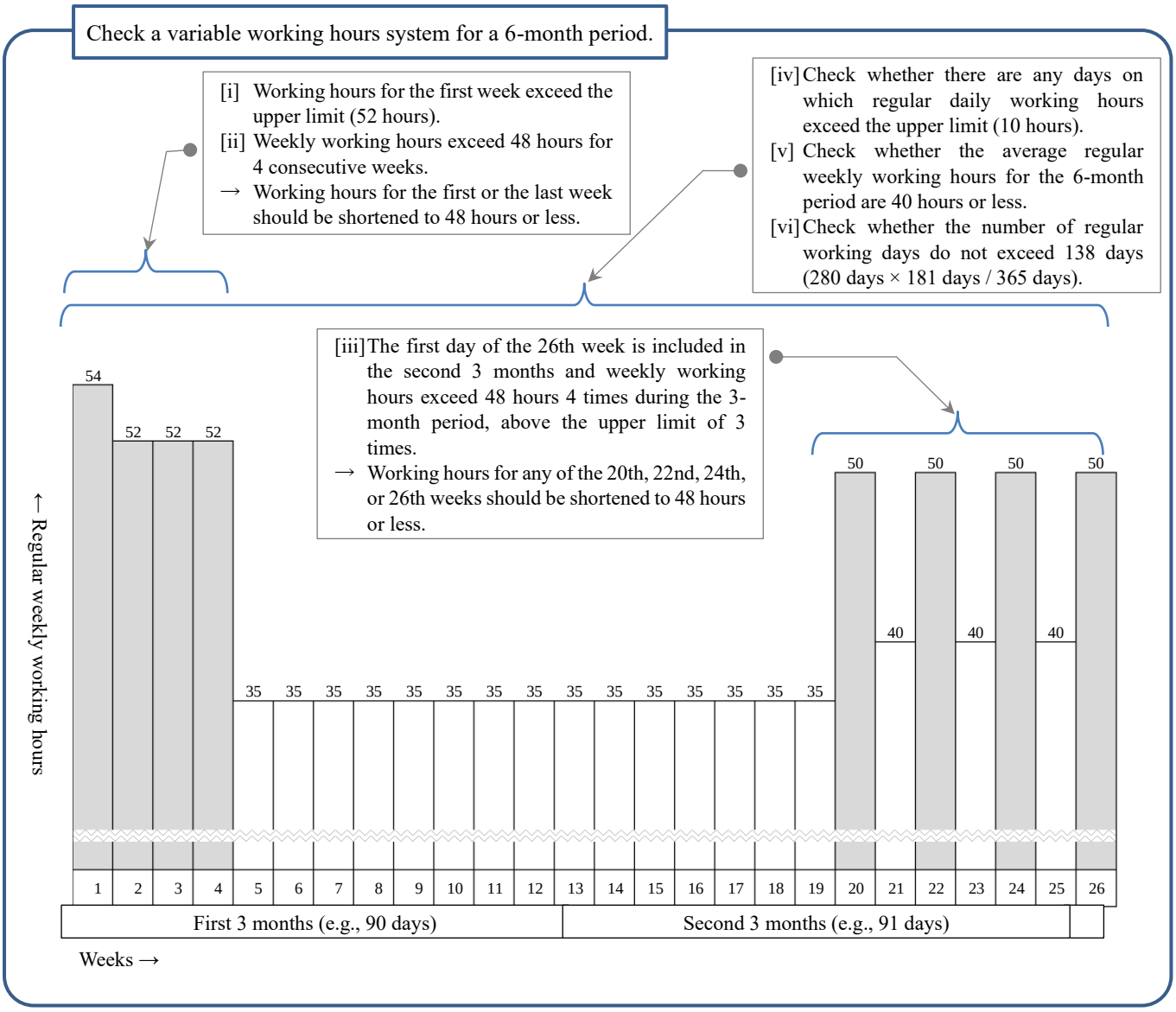
Accordingly, for the adoption of a one-year variable working hours system, the upper limits for daily working hours and weekly working hours are defined as follows.

i) Up to 10 hours per day
ii) Up to 52 hours per week

Additionally, when adopting a one-year variable working hours system for a period exceeding three months, the number of weeks for which the maximum weekly working hours can be applied are limited as follows.

i) Weekly working hours may exceed 48 hours consecutively up to three weeks during the period
ii) Each of the three-month portions of the whole period may contain the first day of the week in which regular weekly working hours exceed 48 hours, up to three times.

These limits are defined for the purpose of preventing the accumulation of workers' fatigue due to frequent or consecutive setting of days or weeks of long regular working hours. The following figure explains the relevant requirements.


Check a variable working hours system for a 6-month period.
[i] Working hours for the first week exceed the upper limit (52 hours).
[ii] Weekly working hours exceed 48 hours for 4 consecutive weeks.
→ Working hours for the first or the last week should be shortened to 48 hours or less.
[iv] Check whether there are any days on which regular daily working hours exceed the upper limit (10 hours).
[v] Check whether the average regular weekly working hours for the 6-month period are 40 hours or less.
[vi] Check whether the number of regular working days do not exceed 138 days (280 days × 181 days / 365 days).
[iii] The first day of the 26th week is included in the second 3 months and weekly working hours exceed 48 hours 4 times during the 3-month period, above the upper limit of 3 times.
→ Working hours for any of the 20th, 22nd, 24th, or 26th weeks should be shortened to 48 hours or less.
← Regular weekly working hours
54
52 52 52
35 35 35 35 35 35 35 35 35 35 35 35 35 35
50 50 50 50
40 40 40
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26
First 3 months (e.g., 90 days)
Second 3 months (e.g., 91 days)
Weeks →

C. Limits of the number of working days during the period

When the applicable period exceeds three months, the upper limit for the number of working days per year is defined to be 280 days. Accordingly, the maximum number of working days for a period exceeding three months but not exceeding one year is calculated as follows.

$$\text{Maximum number of working days during the period} = 280 \text{ days} \times \frac{\text{Number of days in the period}}{365\ (366)}$$

However, when falling under both of the following [i] and [ii], the maximum number of working days is the number of annual working days minus one day for the applicable period under the former agreement or 280 days: whichever represents the fewest number of days (when the applicable period exceeds three months but does not exceed one year, the number of days is as calculated as above).

[i] When a workplace has a former agreement (meaning a labor-management agreement concerning a one-year variable working hours system for a period exceeding three months that includes a day within one year from the first day of the applicable period as mentioned in 1 (2) above (if a workplace has multiple such agreements, the latest one))

[ii] When a workplace determines working hours in a manner satisfying either of the following

i) The longest daily working hours exceed the maximum daily working hours under the former agreement or 9 hours: whichever is longer.

ii) The longest weekly working hours exceed the maximum weekly working hours under the former agreement or 48 hours: whichever is longer.

(e.g.) When a former agreement for a one-year period provides that the maximum daily working hours should be 9 hours, the maximum weekly working hours should be 48 hours, and the number of working days should be 260 days, and if the maximum daily working hours are changed to 10 hours, while maintaining the applicable period to be one year, the maximum number of working days should be 259 days.

D. Conclusion and notification of the rules of employment or labor-management agreement

In order to adopt a one-year variable working hours system, it is necessary to

[i] stipulate the adoption in the rules of employment or the equivalent, or

[ii] conclude a labor-management agreement (see p.49 for an example) and submit it to the Director-General of the competent Labour Standards Inspection Office (see p.50 for the prescribed form).

E. Matters to be decided in a labor-management agreement

[i] Scope of workers

A one-year variable working hours system may also be applied to workers engaging in work only for a part of the applicable period, such as new recruits or workers who quit a job in the middle. However, in this case, when the regular weekly working hours on average for the period during which such workers engaged in work exceed 40 hours, premium wages must be paid for the portion in excess.

[ii] Applicable period

The applicable period must exceed one month but must not exceed one year. However, an especially busy period may be designated as a specified period, which relates to the upper limit for the number of days to have workers work consecutively explained in F. below.

[iii] Working days during the period and working hours for each working day

Working days and daily working hours need to be decided in consideration of the limits of daily and weekly working hours mentioned in B.[ii] above so that the average weekly working hours for the applicable period do not exceed 40 hours.

When dividing the applicable period into several portions exceeding one month, regular daily working hours for the first one month need to be decided, but for the other portions, it suffices to decide only the total numbers of working days and working hours, respectively. Concrete working days and working hours for these following portions of the period may be decided in writing by obtaining consent of a labor union consisting of the majority of the workers of the relevant workplace (or a person representing the majority if a labor union does not exist) by 30 days prior to the first day of each portion of the period.

[iv] Effective term

An effective term of a labor-management agreement is preferably no longer than one year.

[v] Starting day of the applicable period

The first day to start the application of the variable working hours system must be decided.

F. Limits of the number of days to have workers work consecutively

The upper limit is six days, excluding a specified period.

The upper limit for a specified period is the number of days in which one day off can be secured per week. Therefore, the maximum number of consecutive working days is 12.

(2) Concrete example of a one-year variable working hours system

If the busy months are February, March and April, while July and August are the off-season, a one-year variable working hours system may be adopted in accordance with annual fluctuations in workload by deciding and managing regular working days and regular working hours for each working day based on an annual calendar (see p.48).

◆ Example of an annual calendar for a one-year variable working hours system

* Assuming that regular working hours per day are 7 hours and 30 minutes; February, March, and April are the busy months and July and August are the off-season; adjustments are made not by changing the length of regular working hours but by changing regular days off

From April 1, 2013, to March 31, 2014

= Regular days off

April 2013 (24 days)						
Sun.	Mon.	Tue.	Wed.	Thu.	Fri.	Sat.
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

May 2013 (23 days)						
Sun.	Mon.	Tue.	Wed.	Thu.	Fri.	Sat.
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

June 2013 (20days)						
Sun.	Mon.	Tue.	Wed.	Thu.	Fri.	Sat.
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

July 2013 (24 days)						
Sun.	Mon.	Tue.	Wed.	Thu.	Fri.	Sat.
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

August 2013 (17 days)						
Sun.	Mon.	Tue.	Wed.	Thu.	Fri.	Sat.
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

September 2013 (23 days)						
Sun.	Mon.	Tue.	Wed.	Thu.	Fri.	Sat.
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

October 2013 (26 days)						
Sun.	Mon.	Tue.	Wed.	Thu.	Fri.	Sat.
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

November 2013 (23 days)						
Sun.	Mon.	Tue.	Wed.	Thu.	Fri.	Sat.
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

December 2013 (25 days)						
Sun.	Mon.	Tue.	Wed.	Thu.	Fri.	Sat.
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

January 2014 (22 days)						
Sun.	Mon.	Tue.	Wed.	Thu.	Fri.	Sat.
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

February 2014 (24 days)						
Sun.	Mon.	Tue.	Wed.	Thu.	Fri.	Sat.
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	

March 2014 (26 days)						
Sun.	Mon.	Tue.	Wed.	Thu.	Fri.	Sat.
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

7 hours and 30 minutes × 277 days ＝ 2,077.5 hours

(Regular working hours per day)

2,077.5 hours / (365 days / 7 days) ＝ 39.84 hours ＜ 40 hours

(Total regular working hours per year) (Weekly working hours)

◆ **Example of a labor-management agreement on a one-year variable working hours system**

Labor-Management Agreement on One-year Variable Working Hours System

○○○○ Co., Ltd. and ○○ Labor Union agreed as follows concerning the one-year variable working hours system.

(Duty Hours)

Article 1 (1) Regular working hours are defined under a one-year variable working hours system and do not exceed 40 hours per week on overage for one year.

(2) Regular daily working hours are 7 hours and 30 minutes and starting time, finishing time, and rest period are as follows.

Starting time: 9:00; Finishing time: 17:30; Rest period: From 12:00 to 13:00

(Starting Day)

Article 2 The starting day of the applicable period is April 1, YY.

(Days Off)

Article 3 Days off are as shown in the attached annual calendar.

(Scope of Workers Covered under the System)

Article 4 The variable working hours system under this agreement applies to all workers except for any of the following.

[i] Minors aged under 18

[ii] Female workers who are pregnant or are within one year after childbirth and who have applied for exemption from this system

[iii] Workers taking care of children or family members, workers receiving vocational training or education or other workers requiring special consideration who have applied for exemption from this system.

(Specified Period)

Article 5 A specified period is not set.

(Effective Term)

Article 6 This agreement is effective for one year from the starting day.

MM/DD/YY

CEO, ○○○○ Co., Ltd. ○○○○ Seal

Chairman, ○○ Labor Union ○○○○ Seal

Form 4 (Re. Article 12-4, paragraph (6))

Notice of Agreement on One-year Variable Working Hours System

Type of Business	Name of Business	Place of Business (Tel.)		Number of Regular Employees
Number of Workers (aged 18 or older)	Applicable Period and Specified Period (starting day)	Daily and Weekly Working Hours and Regular Days Off during the Period	Average Weekly Working Hours during the Period	Effective Term
( )				

Longest Daily Working Hours (workers aged under 18)	9 hours 00 minutes (hours minutes)	Longest Weekly Working Hours (workers aged under 18)	(hours minutes)	Total Number of Working Days during the Period	

Maximum Number of Consecutive Weeks during Which Weekly Working Hours Exceed 48 Hours		Maximum Number of Consecutive Working Days during the Period	
Number of Weeks during the Period in Which Weekly Working Hours Exceed 48 Hours		Maximum Number of Consecutive Working Days during the Specified Period	

Period under the Former Agreement		Longest Daily Working Hours under the Former Agreement	
Longest Weekly Working Hours under the Former Agreement		Total Number of Working Days during the Period under the Former Agreement	

Effective date of the agreement:

Name of the labor union (labor union consisting of a majority of the workers of the workplace) or name and title of a person representing a majority of the workers, who is the party to the agreement Title:
Name:

Method of selecting the party to the agreement (in the case of a person representing a majority of the workers) ( )

The labor union, which is the party to the agreement as stated above, is a labor union consisting of a majority of the workers in the workplace, or the person representing a majority of the workers, who is the party to the agreement as stated above, represents a majority of the workers. □ (Check the box.)

The person representing a majority of the workers is not in a supervisory or management position prescribed in Article 41, item (ii) of the Labor Standards Act and has been chosen not based on the intention of the employer but in accordance with the procedures, such as vote or a show of hands, after being clearly informed that a person who concludes agreements as prescribed in the same Act is to be chosen. □ (Check the box.)

MM/DD/YY

Employer Title:
Name:

To the Director-General of the Labour Standards Inspection Office

Notes

1. When applying a variable working hours system to workers aged under 18 pursuant to Article 60, paragraph (3), item (ii) of the Labor Standards Act, the information regarding them should be stated in the parentheses in each of the "Number of Workers," "Longest Daily Working Hours," and "Longest Weekly Working Hours" sections.
2. In the "Applicable Period and Specified Period" section, state the length of the base period for totaling working hours and the starting day of that period in the parentheses.
3. Prepare a separate piece of paper to state the daily and weekly working hours and regular days off during the period and attach it to this form.
4. The former agreement is as prescribed in Article 12-4, paragraph (3) of the Regulation for Enforcement of the Labor Standards Act.
5. The agreement must be concluded with the labor union if there is one consisting of a majority of the workers, or with the person representing a majority of the workers if there is no labor union consisting of a majority of the workers. Pursuant to the provisions of Article 6-2, paragraph (1) of the Regulation for Enforcement of the Labor Standards Act, the person representing a majority of the workers must not be in a supervisory or management position prescribed in Article 41, item (ii) of the Labor Standards Act and must be one who has been chosen not based on the intention of the employer but in accordance with the procedures, such as vote or a show of hands, after being clearly informed that a person who concludes agreements as prescribed in the same Act is to be chosen. It should be noted that the agreement is not valid if these requirements are not satisfied. It should also be noted that even if these requirements are satisfied, if the relevant checkboxes are not checked, the document fails to conform to the requirements for formality as a notice.
6. When making the agreement with this form, it should be noted that the agreement should be concluded by a method to clarify the fact that the labor and management, the parties, both reached a deal.

4. Flextime System

A flextime system is a system under which regular daily working hours and starting and finishing times are not fixed, but an employer determines total working hours for a certain period not exceeding one month, and workers work within the limit of the total working hours by deciding the starting and finishing times for each working day at their own initiative (Article 32-3 of the Labor Standards Act).

(1) Requirements for adopting a flextime system

In order to adopt a flextime system, the following procedures need to be undertaken.

A. Prescribe that the starting and finishing times are left to the discretion of each worker in the rules of employment or other equivalent documents.

B. Decide the following through a labor-management agreement.

[i] Scope of workers

[ii] Settlement period(*1)

[iii] Total working hours for the settlement period(*2)

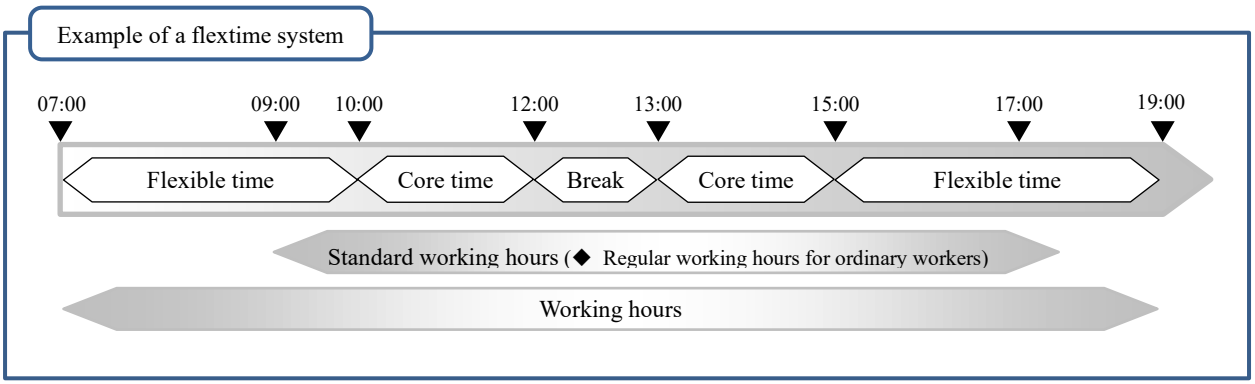
[iv] Standard daily working hours

[v] When deciding a core time(*3) or a flexible time,(*4) their starting and finishing times

*1: A period for which hours that a flextime worker must engage in work are determined under a labor contract, which must not exceed one month with the starting day being clarified (it may be one month or one week); When the settlement period exceeds one month, the relevant labor-management agreement needs to be submitted to the Director-General of the competent Labour Standards Inspection Office.

*2: The number of hours during which a flextime worker must engage in work within the settlement period (regular working hours under a flextime system); The total working hours are to be decided in a manner such that the average working hours during the settlement period do not exceed the statutory working hours. Times to come to and leave the office each day are decided by individual workers.

*3/4: Core time refers to hours during which a worker must engage in work at the office and flexible time refers to hours for which a worker can decide times to start and finish working by him/herself. These are not mandatory.



(2) Payment of premium wages

When the flextime system is adopted, workers decide their daily working hours by themselves. Therefore, even if a worker worked in excess of the statutory daily working hours (eight hours) or weekly working hours (40 hours), such work does not immediately fall under overtime work, and working for shorter hours than the standard daily working hours is not simply considered as absence from work.

Under the flextime system, the portion of actual working hours during the settlement period that exceeds the total of monthly statutory working hours during that settlement period(*) falls under the hours of overtime work. (Incidentally, it is necessary to conclude an agreement under Article 36 in order to have workers work overtime.)

For example, when the settlement period is one month, the total of statutory working hours is as follows, and the total working hours during the settlement period must not exceed these limits.

		Total of monthly statutory working hours
Number of days during the settlement period	31 days	177.1 hours
	30 days	171.4 hours
	29 days	165.7 hours
	28 days	160.0 hours

(*1) For workplaces subject to special measures,(*2) weekly statutory working hours are 44 hours, and the calculation mentioned above is to be based on 44 hours.
However, when the settlement period exceeds one month, workplaces subject to special measures are also required to conclude and submit an agreement under Article 36 and pay premium wages for having workers work overtime in excess of the weekly average of 40 hours.

(*2) Workplaces subject to special measures
Workplaces with fewer than 10 workers in [i] commerce, [ii] film and theatrical performance business (excluding the film-making business), [iii] health and hygiene business or [iv] entertainment business

When the settlement period exceeds one month, the following is required:

(i) The total working hours during the settlement period do not exceed the total of the statutory working hours.(*1)

(ii) Average weekly working hours do not exceed 50 hours for each month.(*2)

Work in excess of either of the above falls under overtime work.

Accordingly, even if the gap between the busy season and the off-season is significant, it is not allowed to arbitrarily increase working hours excessively in busy months.

(*1) When the settlement period exceeds one month, and there is any worker who joined or retired during the period and actually worked for a shorter period than the settlement period, the settlement should be made for the period during which he/she actually worked. If the worker worked in excess of 40 hours per week on average during that period, premium wages need to be paid for those excess hours (Article 32-3-2 of the Labor Standards Act).

Workplaces subject to special measures can have workers work up to 44 hours per week on average when the settlement period is one month or shorter. However, when setting a settlement period exceeding one month and intending to have workers work in excess of 40 hours per week on average, those workplaces are also required to conclude and submit an agreement under Article 36 and pay premium wages (Article 25-2, paragraph (4) of the Regulation for Enforcement of the Labor Standards Act).

(*2) When the settlement period is set not on a monthly basis and there is any period less than a month at the end, it must be ensured that working hours during that period do not exceed 50 hours per week on average.

5. Matters to Note when Adopting a Variable Working Hours System

(1) Minors

A. An employer is not allowed to have minors aged under 18 work under various variable working hours systems, in principle (Article 60, paragraph (1) of the Labor Standards Act).

B. However, with respect to minors over 15 and under 18 years of age (excluding the period until the first 31st of March that occurs on or after the day when they reach 15 years of age), an employer may have them work in accordance with a one-month or one-year variable working hours system up to 48 hours per week and up to eight hours per day (Article 60, paragraph (3) of the Labor Standards Act).

(2) Pregnant women and women within one year after childbirth

When a female worker who is pregnant or is within one year after childbirth makes a request, the employer must have such worker work within the limits of 40 hours per week and eight hours per day, even under a one-month or one-year variable working hours system or a one-week atypical adjustable working hours system (Article 66, paragraph (1) of the Labor Standards Act).

(3) Persons requiring special consideration

When an employer has any of the following persons work under a variable working hours system (excluding a flextime system), the employer must give due consideration so that such person can secure time required for the child care, family care or studying, etc. (Article 12-6 of the Regulation for Enforcement of the Labor Standards Act).

A. A person who takes care of his/her child(ren)

B. A person who takes care of his/her elderly family member(s)

C. A person who receives vocational training or education

D. Other persons who require special consideration

IV. Proper Management of Working Hours

1. Employer's Responsibility to Ascertain Workers' Working Hours

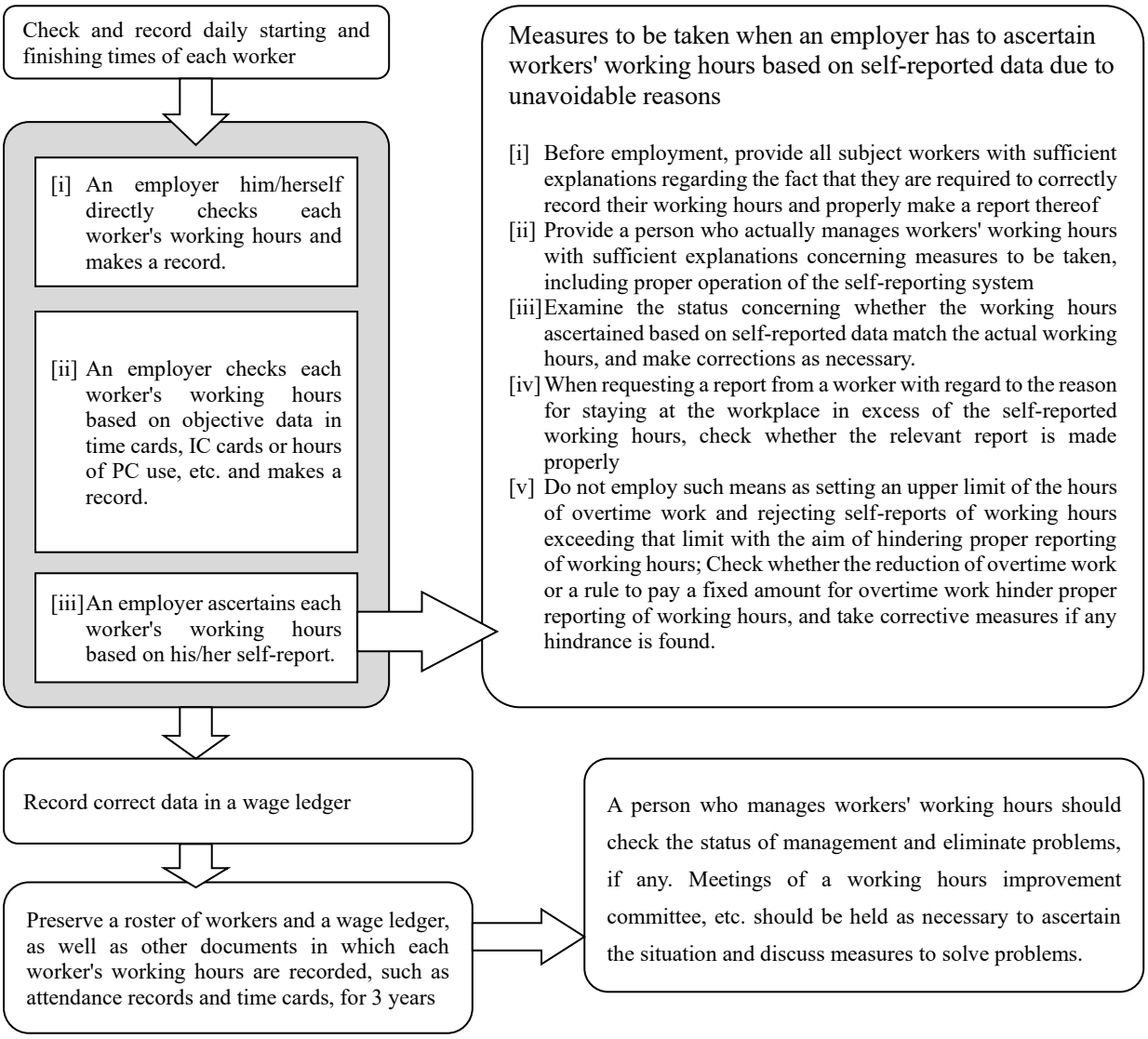
The Labor Standards Act requires employers to ascertain workers' total working hours by obliging them to record working hours in a wage ledger, but ascertaining times when workers start and finish their work is not mandatory.

However, it can be said that the Labor Standards Act is naturally based on the premise that employers manage workers' working hours properly by ascertaining their starting and finishing times to surely pay wages in full, including premium wages for overtime work, work on days off or work late at night, etc. or otherwise ensure they do not violate the Act.

2. Criteria for Proper Management of Working Hours

Irrespective of whether workers do overtime work, employers need to properly ascertain each worker's starting time and finishing time.

In order to clarify such obligations of employers, the Ministry of Health, Labour and Welfare established the "Guidelines Concerning Measures to be Taken by Employers for Properly Ascertaining Working Hours" (on January 20, 2017) to concretely explain required measures and has provided guidance so that employers surely manage working hours properly and observe the Labor Standards Act.



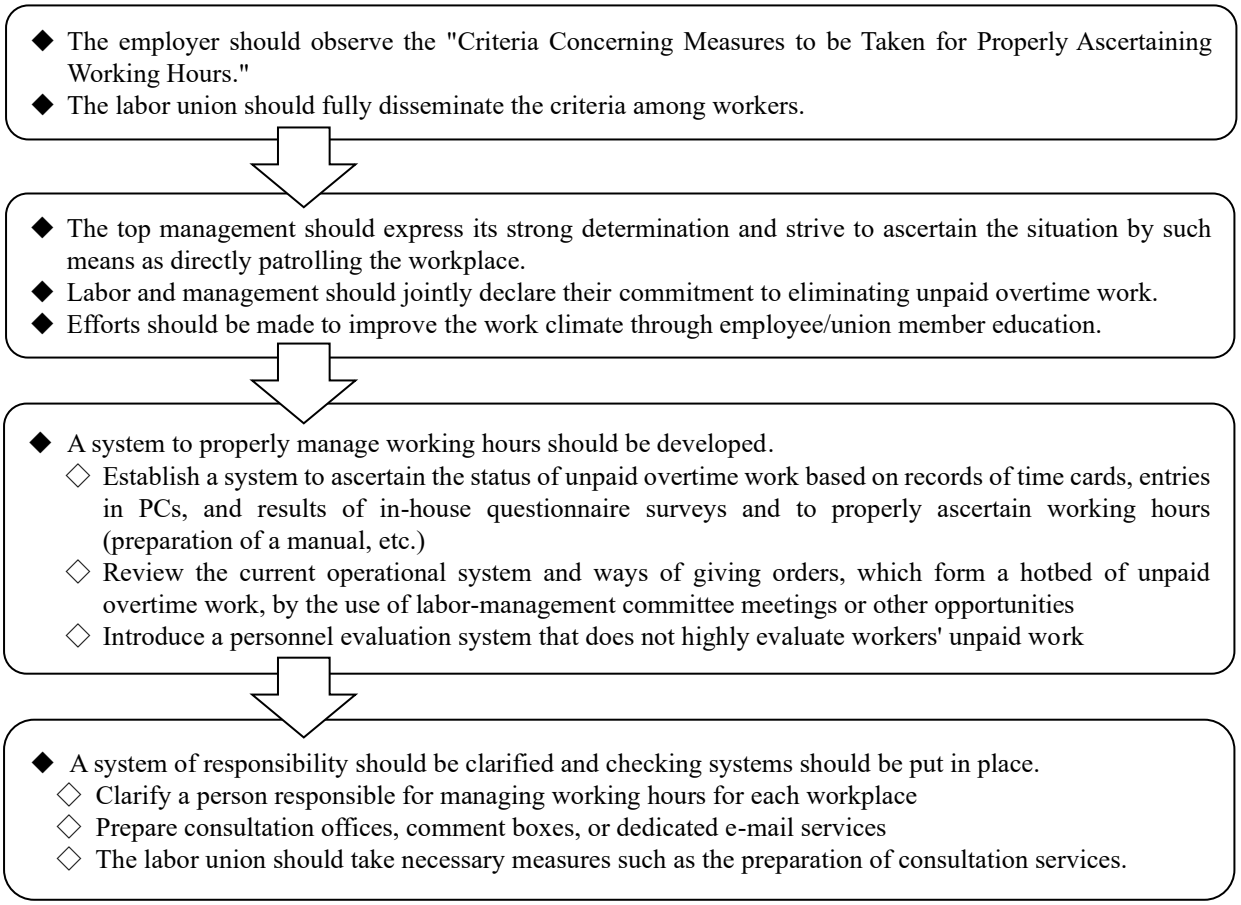
3. Guidelines for Eliminating Unpaid Overtime Work

Unpaid overtime work refers to a situation where a worker has worked or has been forced to work in excess of regular working hours but the employer does not pay wages or premium wages for a part or the whole of the excess working hours. Such acts of an employer are evidently in violation of the Labor Standards Act and cannot be accepted both from the perspective of protecting workers and from the perspective of ensuring fair competition.

The Health and Welfare Ministry considered that it would be indispensable to properly ascertain workers' working hours in order to prevent unpaid overtime work, and thus established the "Criteria Concerning Measures to be Taken for Properly Ascertaining Working Hours" as mentioned in 2. above. However, in order to completely eliminate unpaid overtime work, it is not sufficient that only an employer strives to ascertain workers' working hours properly. It is necessary to develop the whole system for managing working hours, while clarifying the management mechanism and developing checking systems. Collaborative labor-management efforts are indispensable for creating a work climate to observe rules and manage working hours.

In 1940, the Health and Welfare Ministry further established the "Guidelines Concerning Measures to be Taken for Eliminating Unpaid Overtime Work" (Kihatsu No.0523004 of May 23, 2003) and requested both workers and employers to properly manage working hours and make positive efforts to eliminate unpaid overtime work.

Collaborative labor-management efforts requested in the Guidelines are as follows.



V. System to Deem Hours for Work Outside Workplaces as Regular Working Hours

Some workers, such as field sales people, who work outside workplaces almost all day find it difficult to calculate their working hours.

In this manner, when a worker engages in work outside of the workplace, where concrete direction and supervision of his/her employer do not reach, during all or part of his/her working hours and it would be difficult to calculate working hours, such hours for work outside the workplace are to be deemed to fall under regular working hours of the workplace (the main clause of Article 38-2, paragraph (1) of the Labor Standards Act).

If it is necessary to work in excess of the regular working hours in order to carry out the relevant work, the number of hours worked are to be deemed to be the number of hours normally required to carry out such work (the proviso to Article 38-2, paragraph (1) of the Labor Standards Act). In this case, if the number of hours normally required for the relevant work is stipulated in a labor-management agreement, the worker is deemed to have worked for that number of hours. Such labor-management agreement must be submitted by the employer to the Director-General of the competent Labour Standards Inspection Office.

However, even in the case of work outside workplaces, when a worker is under the concrete direction and supervision of the employer as follows, the worker's working hours can be calculated and this system of deemed working hours does not apply.

[i] When a group of workers work outside the workplace and a worker in charge of managing their working hours is included in that group

[ii] When a worker engages in work while receiving instructions from the employer by cellular phone, etc. as needed

[iii] When a worker first receives concrete instructions at the workplace with regard to the work on that day, including the place to visit and time to return to the workplace, then visits that place to engage in work and returns to the workplace after finishing it

VI. Discretionary Work System

A discretionary work system is a system under which a worker works without receiving concrete instructions from the employer because the means of executing work or the allocation of time needs to be left to the discretion of the worker due to the nature of the work, and the worker is deemed to have worked for the working hours as agreed to in advance between labor and management.

There are two types of discretionary work system as follows.

[i] Discretionary work system for professional work such as research and development

[ii] Discretionary work system for management-related work such as planning, researching and analyzing matters regarding business operation

1. Discretionary Work System for Professional Work

For such work as development of new products or technologies, the means of executing work or the allocation of time need to be left to the discretion of workers due to the nature of the work. As types of work for which it is difficult for employers to give concrete instructions on how to execute work or allocate time, the following 19 types of work are specified.

[i] Research and development of new products or technologies or research in cultural or natural sciences

[ii] Analysis or design of information processing systems

[iii] News gathering or editing in the newspaper, publication or broadcasting business

[iv] Development of new designs for apparel, interior decoration, industrial products, advertisements, etc. (work of designers)

[v] Work of producers or directors in the business of making broadcast programs, films, etc.

[vi] Drafting of copies concerning the details and characteristics of products for the purpose of advertisement (work of copywriters)

[vii] Consultation and advice concerning problems in utilizing information processing systems in business and methods of applying systems (work of system consultants)

[viii] Coordination and advice concerning layouts of lighting equipment and furniture within buildings (work of interior coordinators)

[ix] Creation of game software

[x] Analysis and evaluation of security market trends or value of securities or advice on investments based thereon (work of financial analysts)

[xi] Development of financial products based on knowledge of financial engineering

[xii] Teaching and research at universities

[xiii] Work of certified public accountants

[xiv] Work of attorneys

[xv] Work of architects

[xvi] Work of real estate appraisers

[xvii] Work of patent attorneys

[xviii] Work of tax accountants

[xix] Work of small and medium enterprise management consultants

Regarding workers who engage in duties stipulated in a labor-management agreement out of the types of work listed above, they are deemed to have worked for the working hours as stipulated in the agreement, irrespective of their actual working hours.

(1) Matters to be decided in a labor-management agreement

[i] Scope of work and workers covered under the discretionary work system

[ii] Provision to the effect that the employer would not give workers concrete instructions concerning the means of executing work or the allocation of time

[iii] Daily hours necessary for the relevant work during which workers are deemed to have worked

[iv] The effective term of the agreement (preferably no longer than three years)

[v] Measures to secure the health and welfare of workers depending on their working hours

[vi] Measures to handle complaints from workers

[vii] Retention of records on the measures mentioned in [v] and [vi] for each worker during the effective term of the agreement and for three years after the expiration of the term

(2) Obligation of notification

A labor-management agreement mentioned in (1) above must be documented in the prescribed form (see p.62) and be submitted to the Director-General of the competent Labour Standards Inspection Office.

2. Discretionary Work System for Management-related Work

Apart from the discretionary work system mentioned in 1. above, another type of discretionary work system may be adopted for work of planning, researching and analyzing matters regarding business operation for which an employer does not give concrete instructions concerning the means of executing work or the allocation of time (covered types of work), on the following conditions: a labor-management committee that satisfies certain requirements has been established for the purpose of examining matters concerning working conditions and giving workers opportunities to present opinions; and the following matters have been decided by a majority of no less than four-fifths of committee members, have been documented in the prescribed form (see p.63) and have been submitted to the Director-General of the competent Labour Standards Inspection Office.

(Note) A discretionary work system for management-related work may naturally be adopted only at a workplace where any of the covered types of work is conducted.

(1) Matters to be decided at a labor-management committee

[i] Concrete scope of covered types of work

Covered types of work refer to work such as planning, researching and analyzing matters that affect operation of the business (matters affecting business operation of the company to which the workplace belongs, and influential original business plans and operational plans, etc.) for which the employer does not give concrete instructions concerning the means of executing work or the allocation of time, which need to be left to the discretion of workers due to the nature of the work.

[ii] Concrete scope of covered workers

Covered workers are those who have knowledge and experience for properly executing the relevant work and must regularly engage in the relevant work. The scope of covered workers may differ depending on types of work. Therefore, it is necessary to concretely clarify workers' years of experience and qualifications in order to specify the coverage. For example, the scope of workers needs to be concretely specified, in such manner as "workers who are university graduates and have around 5-year work experience" or "workers ranked as a chief or with a higher status (Grade ○ or above)."

[iii] Hours during which workers are deemed to have worked

Deemed working hours need to be concretely specified as daily working hours of covered workers.

Provisions concerning rest periods, days off and night work are also applied as they are under a discretionary work system for management-related work.

[iv] Means to ascertain working hours and details of the measures to secure the health and welfare of workers

The employer must determine concrete means to ascertain the working hours of covered workers. Such means should be based on records of workers' times of coming to and leaving the workplace or the office, etc., which clearly indicate how long and during what period of time each worker stayed at the workplace and was ready to provide labor. Additionally, the employer needs to clarify what measures to take to secure the health and welfare of covered workers depending on their statuses of engagement in work, which the employer has thus ascertained.

[v] Details of the measures to handle complaints from workers

It is necessary to clarify the details of a service office to accept complaints, responsible personnel, scope of complaints to be accepted, and procedures and methods of handling complaints, etc.

[vi] The need to obtain consent of workers and prohibition of disadvantageous treatment of workers who do not give consent

It is necessary to obtain consent from each worker for the effective term of each resolution.

[vii] Effective term of the committee resolution

An effective term should preferably be no longer than three years.

[viii] Retention of records on the following matters concerning the implementation status of the discretionary work system

Records on the following matters for each worker should be preserved during the effective term of a labor-management committee resolution and for three years after the expiration of the effective term.

- The status of working hours of the relevant worker
- Measures taken by the employer in relation to [iv] above
- Measures taken by the employer in relation to [v] above
- The worker's consent obtained as mentioned in [vi] above

(2) Requirements for a labor-management committee

[i] Half of the committee members must be appointed from among members of a labor union, or from among persons representing the majority of the workers (excluding managers and supervisors) in the absence of a labor union, while designating their terms of office.

[ii] Meeting minutes must be prepared after each time a meeting is held and be preserved for three years. Efforts must be made to disseminate the content of those minutes among workers of the workplace.

[iii] Rules must be established regarding convening of committee meetings, quorum, proceedings and other matters necessary for the operation of the committee.

(3) Reporting

Regarding the following matters, it is necessary to prepare a document in the prescribed form (see p.64) and submit it to the Director-General of the competent Labour Standards Inspection Office once within six months from the day of a labor-management committee resolution and then once a year thereafter.

[i] Status of working hours of covered workers

[ii] Implementation status of the measures to secure the health and welfare of covered workers

Form 13 (Re. Article 24-2-2, paragraph (4))

Notice of Agreement on Discretionary Work System for Professional Work

Type of Business	Name of Business	Place of Business (Tel.)

Type of Work	Details of Work	Number of Workers	Regular Daily Working Hours	Working Hours Stipulated in the Agreement	Measures to Ensure Workers' Health and Welfare (means to ascertain working hours)	Measures Concerning the Handling of Complaints from Workers	Effective Term of the Agreement
Date of Submission of the Notice of Agreement on Overtime Work							

Effective date of the agreement:

Name of the labor union (labor union consisting of a majority of the workers of the workplace) or name and title of a person representing a majority of the workers, who is the party to the agreement

Title:
Name:

Method of selecting the party to the agreement (in the case of a person representing a majority of the workers) ( )

The labor union, which is the party to the agreement as stated above, is a labor union consisting of a majority of the workers in the workplace, or the person representing a majority of the workers, who is the party to the agreement as stated above, represents a majority of the workers. □ (Check the box.)

The person representing a majority of the workers is not in a supervisory or management position prescribed in Article 41, item (ii) of the Labor Standards Act and has been chosen not based on the intention of the employer but in accordance with the procedures, such as vote or a show of hands, after being clearly informed that a person who concludes agreements as prescribed in the same Act is to be chosen. □ (Check the box.)

MM/DD/YY

Employer

Title:
Name:

To the Director-General of the Labour Standards Inspection Office

Notes

1. In the "Details of Work" section, concretely state the necessity to leave the means of executing work or the allocation of time to the discretion of workers due to the nature of the work.
2. In the "Measures to Ensure Workers' Health and Welfare (means to ascertain working hours)" section, concretely state the measures prescribed in Article 38-3, paragraph (1), item (iv) of the Labor Standards Act and also the means to ascertain working hours set forth in the same item in the parentheses.
3. In the "Measures Concerning the Handling of Complaints from Workers" section, concretely state the measures prescribed in Article 38-3, paragraph (1), item (v) of the Labor Standards Act.
4. In the "Date of Submission of the Notice of the Agreement on Overtime Work" section, state the date on which the Notice was submitted (if the Notice has not been submitted, the scheduled date of submission). However, if agreed working hours do not exceed the working hours prescribed in Article 32 or Article 40 of the Labor Standards Act, this section may be left blank.
5. The agreement must be concluded with the labor union if there is one consisting of a majority of the workers, or with the person representing a majority of the workers if there is no labor union consisting of a majority of the workers. Pursuant to the provisions of Article 6-2, paragraph (1) of the Regulation for Enforcement of the Labor Standards Act, the person representing a majority of the workers must not be in a supervisory or management position prescribed in Article 41, item (ii) of the Labor Standards Act and must be one who has been chosen not based on the intention of the employer but in accordance with the procedures, such as vote or a show of hands, after being clearly informed that a person who concludes agreements as prescribed in the same Act is to be chosen. It should be noted that the agreement is not valid if these requirements are not satisfied. It should also be noted that even if these requirements are satisfied, if the relevant checkboxes are not checked, the document fails to conform to the requirements for formality as a notice.
6. When making the agreement with this form, it should be noted that the agreement should be concluded by a method to clarify the fact that the labor and management, the parties, both reached a deal.

Form 13-2 (Re. Article 24-2-3, paragraph (1))

Notice of Resolution on Discretionary Work System for Management-related Work

Type of Business	Name of Business	Place of Business (Tel.)	Number of Regular Employees

Type of Work	Scope of Workers (years of experience, qualifications, etc.)	Number of Workers	Working hours in resolution
Measures to Ensure Workers' Health and Welfare (means to ascertain working hours)			
Measures Concerning the Handling of Complaints from Workers			
Existence or Non-existence of a Resolution on the Need to Obtain Consent of Workers and Prohibition of Dismissal or Other Disadvantageous Treatment of Workers who do not Give Consent			Exist・Not exist
Existence or Non-existence of a Resolution on Measures Taken for Ascertaining Working Hours and Ensuring Workers' Health and Welfare, Measures Taken Concerning the Handling of Complaints from Workers, and Retention of Records on Workers' Consent			Exist・Not exist

Resolution Established on MM/DD/YY　　Effective Term of the Resolution: From MM/DD/YY to MM/DD/YY

Number of Members	Rules	Rules	Consent of the Committee	Matters Included in the Operational Rules
		Exist・Not exist	Exist・Not exist	Convening of meetings / Selection of the chairman / Methods of making resolutions / Quorum / Information disclosure to the committee

Members Appointed for Designated Terms of Office		Other Members
Name	Term of Office	Name

The Resolution was made by a majority of no less than four-fifths of the committee members.

Name of the labor union (labor union consisting of a majority of the workers of the workplace) or name and title of a person representing a majority of the workers that appointed half of the committee members by designating their terms of office　Title:　Name:

Method of selecting the person that appointed half of the committee members by designating their terms of office (in the case of a person representing the majority of the workers): (　　)

The labor union, which is the party to the agreement as stated above, is a labor union consisting of a majority of the workers in the workplace, or the person representing a majority of the workers, who is the party to the agreement as stated above, represents a majority of the workers. □ (Check the box.)

The person representing a majority of the workers is not in a supervisory or management position prescribed in Article 41, item (ii) of the Labor Standards Act and has been chosen not based on the intention of the employer but in accordance with the procedures, such as vote or a show of hands, after being clearly informed that a person who concludes agreements as prescribed in the same Act is to be chosen. □ (Check the box.)

MM/DD/YY　　Employer　Title:　Name:

To the Director-General of the　Labour Standards Inspection Office

Notes

1. In the "Details of Work" section, concretely state the necessity to leave the means of executing work or the allocation of time to the discretion of workers due to the nature of the work.
2. In the "Measures to Ensure Workers' Health and Welfare (means to ascertain working hours)" section, concretely state the measures prescribed in Article 38-3, paragraph (1), item (iv) of the Labor Standards Act and also the means to ascertain working hours set forth in the same item in the parentheses.
3. In the "Measures Concerning the Handling of Complaints from Workers" section, concretely state the measures prescribed in Article 38-3, paragraph (1), item (v) of the Labor Standards Act.
4. In the "Date of Submission of the Notice of the Agreement on Overtime Work" section, state the date on which the Notice was submitted (if the Notice has not been submitted, the scheduled date of submission). However, if agreed working hours do not exceed the working hours prescribed in Article 32 or Article 40 of the Labor Standards Act, this section may be left blank.
5. The agreement must be concluded with the labor union if there is one consisting of a majority of the workers, or with the person representing a majority of the workers if there is no labor union consisting of a majority of the workers. Pursuant to the provisions of Article 6-2, paragraph (1) of the Regulation for Enforcement of the Labor Standards Act, the person representing a majority of the workers must not be in a supervisory or management position prescribed in Article 41, item (ii) of the Labor Standards Act and must be one who has been chosen not based on the intention of the employer but in accordance with the procedures, such as vote or a show of hands, after being clearly informed that a person who concludes agreements as prescribed in the same Act is to be chosen. It should be noted that the agreement is not valid if these requirements are not satisfied. It should also be noted that even if these requirements are satisfied, if the relevant checkboxes are not checked, the document fails to conform to the requirements for formality as a notice.
6. When making the agreement with this form, it should be noted that the agreement should be concluded by a method to clarify the fact that the labor and management, the parties, both reached a deal.

Form 13-4 (Re. Article 24-2-5, paragraph (1))

Report on Discretionary Work System for Management-related Work

Reporting Period	From MM/DD/YY to MM/DD/YY

Type of Business	Name of Business	Place of Business (Tel.)

Type of Work	Scope of Workers	Number of Workers	Workers' Working Hours (means to ascertain working hours)	Implementation Status of Measures to Ensure Workers' Health and Welfare
			( )	
			( )	
			( )	
			( )	

MM/DD/YY

Employer Title:
Name:

To the Director-General of the Labour Standards Inspection Office

Notes

1. In the "Type of Work" section, concretely state the work decided in the resolution as the work prescribed in Article 38-4, paragraph (1), item (i) of the Labor Standards Act.
2. In the "Scope of Workers" and "Number of Workers" sections, state the scope of the workers decided in the resolution as the workers prescribed in Article 38-4, paragraph (1), item (ii) of the Labor Standards Act, and the number of such workers.
3. In the "Workers' Working Hours" section, concretely state the average and the longest working hours out of the workers' working hours ascertained as the working hours prescribed in Article 38-4, paragraph (1), item (iv) of the Labor Standards Act. Additionally, concretely state the means used for ascertaining working hours in the parentheses.
4. In the "Implementation Status of Measures to Ensure Workers' Health and Welfare" section, concretely state the status of measures taken as the measures prescribed in Article 38-4, paragraph (1), item (iv) of the Labor Standards Act.

VII.Aggregation of Working Hours

Even when a worker works at multiple workplaces, working hours are to be aggregated for the application of the provisions concerning working hours. Cases where a worker works at multiple workplaces include cases where a worker is employed by multiple employers.

Therefore, if a worker is employed by two or more employers and his/her aggregated working hours exceed eight hours a day, premium wages for the excess portion are to be paid by an employer who had the worker engage in work in excess of the statutory working hours (Article 38, paragraph (1) of the Labor Standards Act).

* See "- Reference - Side Work and Extra Work" for detail.

Chapter 5: Rest Periods, Days Off and Leave, etc.

I. Rest Periods

1. Length of Rest Periods

It is legally required to provide workers with rest periods during working hours so that they can recover from physical and mental fatigue accumulated while working for a certain length of time.

Article 34 of the Labor Standards Act provides that an employer must provide workers with rest periods during working hours for

[i] at least 45 minutes when working hours exceed 6 hours, and

[ii] at least one hour when working hours exceed 8 hours.

Even when a workplace has a rule to limit daily working hours up to 8 hours and to give workers a 45-minute rest period, if daily working hours exceed 8 hours on a certain day due to the need for overtime work, the workplace must give workers an additional 15-minute rest period.

2. Principle of Providing Rest Periods at the Same Time

In principle, rest periods must be provided to all workers at the same time during working hours.

However, for some types of business, providing rest periods to all workers at the same time may cause inconvenience to the general public, and therefore, as special provisions concerning rest periods under Article 40 of the Labor Standards Act, Article 31 of the Regulation for Enforcement of the Labor Standards Act excludes the following businesses.

[i] Transport business

[ii] Commerce

[iii] Financial and advertising businesses

[iv] Screen motion pictures and theatrical performances

[v] Communication business

[vi] Health and hygiene business

[vii] Entertainment business

[viii] Businesses of public agencies

Additionally, if the scope of workers excluded from the application of this principle and methods to provide rest periods to those workers are stipulated in a labor-management agreement, such workplace is exempted from the obligation to provide rest periods to all workers at the same time.

Article 41 of the Labor Standards Act provides that the provisions concerning rest periods of Article 34 of the Act do not apply to

[i] persons engaging in business stipulated in item (vi) (excluding forestry) or item (vii) (excluding livestock, sericultural, or fishery businesses) of Appended Table 1 of the Act,

[ii] persons in positions of supervision or management or persons handling confidential affairs, regardless of the type of business, and

[iii] persons engaging in monitoring or in intermittent labor, with respect to which the employer has obtained permission from the Director-General of the competent Labour Standards Inspection Office.

(See "Chapter 6 Exclusion from Application of Provisions on Working Hours, Rest Periods and Days Off.")

3. Free Use of Rest Periods

A rest period is a time during which workers are guaranteed the right to separate themselves from their work in the middle of their working hours. This purport is clarified by the provisions to require employers to permit workers to use the rest periods freely (Article 34, paragraph (3) of the Labor Standards Act).

To permit workers to use the rest periods freely means that employers are prohibited from restricting workers' conduct during those periods and from placing workers under control for the purpose of having them fulfil duties.

Therefore, if an employer orders a worker to stay at the workplace during a rest period for the purpose of waiting on visitors or for preparing for an accidental event, the worker cannot use that time freely and it cannot be said that the employer gives the worker a rest period.

II. Days Off

1. Principle of Weekly Days Off System

Employers must provide workers with at least one day off per week, in principle, but if it is difficult, employers may provide workers with 4 days off or more over any four-week period (Article 35 of the Labor Standards Act).

Key points concerning days off are as follows.

(1) If employers provide workers with at least one day off per week or four days off or more per four-week period, they are not required under the Labor Standards Act to make national holidays as regular days off or to adopt a five-day week system. However, they need to pay attention to observe the statutory weekly working hours as mentioned above (see "Chapter 4: Working Hours").

(2) Each worker's days off may be on different days, but an employer's failure to give at least one day off per week to any worker constitutes a violation of Article 35 of the Labor Standards Act.

(3) Days off may be on any days of the week or may be on different days every week, but an employer's failure to give at least one day off per week constitutes a violation of Article 35 of the Labor Standards Act.

(4) Days off must be given on a calendar day basis (meaning a continuous 24 hours from 0:00 to 24:00), in principle.

If an employer has a worker work even for a short time, such as 30 minutes or one hour, during a day, that day is not counted as the worker's day off (if that day is the worker's regular day off, the employer is considered to have had the worker do holiday work).

The Labor Standards Act does not require employers to specify workers' days off (to determine regular days off), but it is preferable to specify days off in light of the purpose of days off, i.e., to enable workers to recover from physical and mental fatigue regularly in a planned manner.

(5) Regarding large companies, the rate of premium wages for overtime work in excess of 60 hours per month is set at 50% or more, which is higher than the rate of premium wages for work on a statutory holiday (35% or more).

2. 4 Days Off per 4-Week Period System

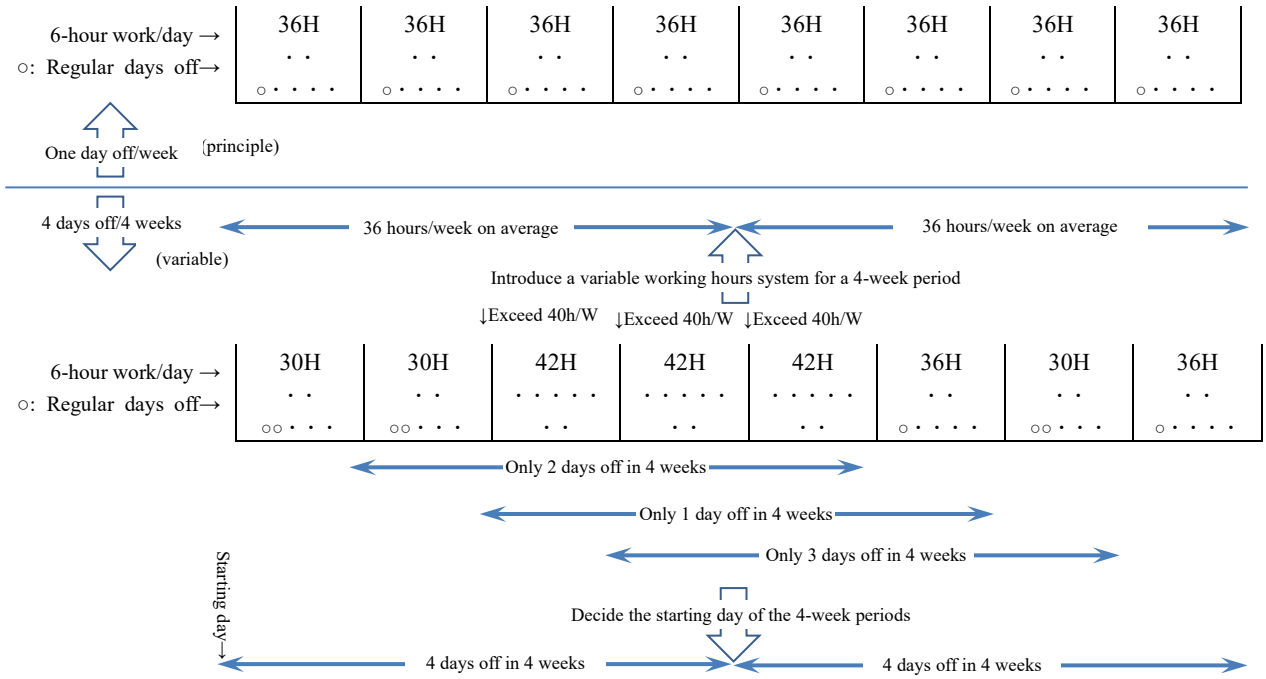
When it is difficult, an employer is permitted not to adopt a weekly days off system if the employer provide workers with four days off or more per four-week period as shown below (4 days off per 4-week period system) (Article 35, paragraph (2) of the Labor Standards Act).

In order to adopt this system, it is required to clarify the starting day of the four-week period and preferably specify days off in the rules of employment or the like.

Additionally, consideration should be taken not to exceed the statutory weekly working hours.

For example, under a 4 days off per 4-week period system, even if regular daily working hours are set shorter at six hours, regular weekly working hours for a week without days off exceed the statutory weekly working hours (40 hours). In order to avoid such overtime work, it is necessary to adopt a one-month variable working hours system.

◎ Relationship between weekly days off system and 4 days off per 4-week period system and overtime work



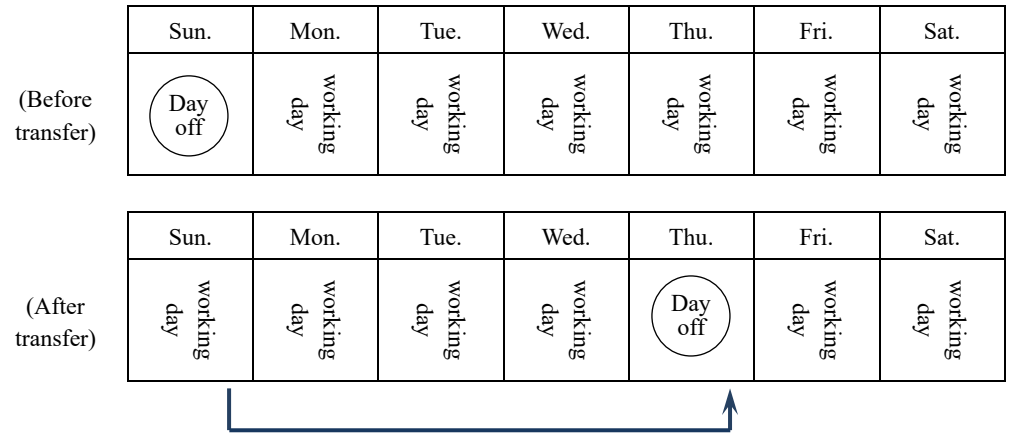
3. Difference between Transfer of a Day Off and Provision of a Compensatory Day Off

When an employer has no choice but to have a worker work on a regular day off, the employer must secure his/her day off by transferring it to another day.

Transfer of a day off is to exchange a regular day off with another day in advance, as shown in the following figure, for example, to have a worker work on Sunday, a regular day off, and give him/her a day off on Thursday, a regular working day, instead.

In this case, an original day off becomes a working day and work on this day is not considered to be holiday work (Kishu No.1397 of April 19, 1948; Kihatsu No.150 of March 14, 1988). However, when a day off is transferred to the following week and the working hours of the relevant week exceed the statutory weekly working hours, the work for those exceeding hours falls under overtime work.

Example of transfer of a day off



On the other hand, in the case of a compensatory day off, which is given after having a worker work on a day off, the fact that the worker worked on his/her day off does not change even if another day was later given as a compensatory day off. Therefore, the abovementioned Public Notices state that a compensatory day off to exempt a worker from work on a specific working day as compensation for the worker's work on a day off does not fall under the transfer of a day off.

< Difference and matters to note >

Item	Transfer of a day off	Provision of a compensatory day off
Meaning	To change a regular day off to a working day and another working day to a day off in advance	To give a day off on another day as compensation for having a worker work on a day off
Requirements	○ Civil grounds, such as that the rules of employment have a clause for transfer of days off, are necessary. ○ A substitute day off must be specified. * A substitute day off must be within the specified four weeks (care must be taken so that weekly working hours do not exceed the statutory working hours). ○ Transfer of a day off must be communicated to the worker by the day before.	○ Civil grounds, such as that the rules of employment have a clause for provision of compensatory days off, are necessary. ○ Employers can provide compensatory days off at their discretion. * When work on a regular day off falls under work on a statutory holiday, an agreement under Article 36 of the Act or the like is required.

Wages	If an employer provides a substitute day off in the same week as the original day off, the employer only needs to pay normal wages for the original day off and does not need to pay wages for the substitute day off.(*)	Premium wages must be paid for work on a day off.

* When a substitute day off is given in the following week or later, and working hours for the relevant week exceed the statutory working hours, premium wages may need to be paid for the work for those exceeding hours.

III. Annual Paid Leave

1. Eligibility for Annual Paid Leave

Eligibility for annual paid leave is as follows (Article 39 of the Labor Standards Act):

[i] workers who have been employed continuously for 6 months from the day of their being hired, and continuously for one year thereafter; and

[ii] who have reported to work on at least 80% of the total working days for a certain period.

An employer must grant annual paid leave of the statutory number of days in accordance with the years of service to all workers satisfying these requirements.

When calculating the number of working days to judge whether a worker worked on at least 80% of the total, the following needs to be included in working days as prescribed in the Labor Standards Act, etc.

- A period during which a worker took a leave due to a work-related injury or disease
- A period during which a female worker before and after childbirth took a leave under Article 65 of the Labor Standards Act
- A period of child care or family care leave under the Child Care and Family Care Leave Act
- A period during which a worker took an annual paid leave

2. Annual Paid Leave to be Granted

An employer must grant annual paid leave of the statutory number of days in accordance with the years of service (Table 1) to all workers satisfying the requirements mentioned in 1. above.

Table 1 Annual Paid Leave to be Granted (For workers who are required to work at least five days or at least 30 hours per week)

Years of service	0.5 years	1.5 years	2.5 years	3.5 years	4.5 years	5.5 years	6 years or longer
Days granted	10 days	11 days	12 days	14 days	16 days	18 days	20 days

3. (Proportionally Granted) Annual Paid Leave for Part-Time Workers

Even in the case of part-time workers, if they have been employed continuously for 6 months from the day of their being hired, and continuously for one year thereafter, and have reported to work on at least 80% of the total working days for a certain period, an employer must grant annual paid leave in accordance with their years of service.

Out of part-time workers whose regular weekly working hours are less than 30 hours, an employer is required to grant annual paid leave in accordance with the number of actual working days (Table 2) (proportionally granted annual paid leave) to

[i] those whose regular weekly working days are four days or less, and

[ii] those whose regular yearly working days are 216 days or less.

Regarding part-time workers, whose regular weekly working days are four days or less but regular weekly working hours are 30 hours or longer, an employer must grant annual paid leave of the same number of days as that of regular workers (Table 1).

Table 2 Proportionally Granted Annual Paid Leave

Regular weekly working days	Regular yearly working days	Years of service						
		0.5 years	1.5 years	2.5 years	3.5 years	4.5 years	5.5 years	6.5 years or longer
4 days	169-216 days	7 days	8 days	9 days	10 days	12 days	13 days	15 days
3 days	121-168 days	5 days	6 days	6 days	8 days	9 days	10 days	11 days
2 days	73-120 days	3 days	4 days	4 days	5 days	6 days	6 days	7 days
1 day	48-72 days	1 day	2 days	2 days	2 days	3 days	3 days	3 days

4. Workers' Designation of Date to Take Annual Paid Leave and Employers' Rights to Change Date Thus Designated

An employer must grant annual paid leave as designated by a worker except for cases of granting annual paid leave systematically mentioned in 5. below. In other words, when a worker designates a certain date to take annual paid leave, the employer may not refuse such request of the worker.

However, if a worker's leave on the desired date may obstruct normal business operation, the employer may change the date of the worker's paid leave (the right to change designated date of annual paid leave).

This right cannot be exercised only for insignificant reasons such as being a busy day or being shorthanded. An employer may not designate a substitute date by him/herself.

5. Systematic Granting of Annual Paid Leave

Annual paid leave is basically granted on dates designated by a worker, but when a labor-management agreement is concluded concerning systematic granting of annual paid leave, an employer may grant annual paid leave on dates as specified in that agreement, while reserving five days for each worker's discretionary use.

In other words, annual paid leave up to five days must be granted on dates designated by workers but the rest may be granted systematically by specifying dates in a labor-management agreement in advance.

Methods of granting annual paid leave systematically include the following.

[i] At the same time by closing the workplace as a whole

[ii] By team on a rotating basis

[iii] Individually based on a schedule of annual paid leave

Systematic granting is also effective from the viewpoint of encouraging workers to actively take annual paid leave and enjoy leisure activities.

However, when granting annual paid leave at the same time as mentioned in [i] above, special measures need to be taken for new recruits ineligible for annual paid leave yet or other workers entitled only to annual paid leave shorter than the number of days to be systematically granted, such as granting special leave or increasing the number of days granted as annual paid leave.

6. Granting of Annual Paid Leave on a Half-day Basis

Annual paid leave should be granted consecutively or separately, but the number of days granted as annual paid leave is based on the number of working days, and an employer is not required to accept a worker's request for annual paid leave on a half-day basis (Kishu No.1428 of July 7, 1949; Kihatsu No.150 of March 14, 1988).

However, in recent years, both labor and management have come to prefer annual paid leave on a half-day basis. Therefore, while maintaining the principle of using the number of working days as the basis, it is construed permissible to adopt a system to grant annual paid leave on a half-day basis only when a worker designates a date to take a half-day leave and the employer agrees and the system is operated appropriately within a scope not hindering the original method of taking leave based on the number of working days (Kihatsu No.33 of July 27, 1995).

7. Granting of Annual Paid Leave on an Hourly Basis

Apart from granting of annual paid leave on a half-day basis mentioned in 6. above, if a labor-management agreement is concluded, annual paid leave may be granted or taken on an hourly basis up to five days a year only when a worker wishes to do so (hereinafter referred to as "annual leave by the hour") (Article 39, paragraph (4) of the Labor Standards Act).

The matters to be specified in a labor-management agreement are as follows. Annual leave by the hour must also be stated in the rules of employment, in which matters concerning leave in general must be specified.

(1) Scope of workers covered under a system of annual leave by the hour

Decide the scope of workers. Exclusion of a part of the workers is permitted only when the "normal operation of the business" is interfered with. It is not permitted to limit the scope based on the purpose of taking annual leave, for example, limitation only to workers raising a child.

(2) Number of days of annual leave by the hour

Decide the number of days within five days. When there are any days carried over from the previous fiscal year, the total number including those days carried over will be within five days.

(3) Number of hours corresponding to one-day annual leave

Decide the number of hours corresponding to one-day annual leave based on the number of regular working hours. When regular daily working hours have any fractions, such as 7 hours and 30 minutes, the number must be rounded up to 8 hours a day.

(4) Unit of time other than the hour, if applicable

When the unit of time is not 1 hour, decide that unit (e.g., 2 hours).

An example of a labor-management agreement is as follows.

Labor-Management Agreement on Annual Paid Leave on an Hourly Basis

○○○○○, CEO of XX Co., Ltd., and ○○○○○, the representative of the workers, agreed as follows concerning the granting of annual paid leave on an hourly basis.

(Scope of Workers)
Article 1 All workers are to be covered.
(Maximum Number of Days)
Article 2 The number of days for which annual paid leave may be acquired on an hourly basis is within each worker's number of days granted as annual paid leave and up to five days.
(Number of Hours Corresponding to One-day Annual Paid Leave
Article 3 When acquiring annual paid leave on an hourly basis, a total of eight hours is to correspond to one-day annual paid leave.
(Unit of Time)
Article 4 When acquiring annual paid leave on an hourly basis, the leave should be acquired by the hour.
(Carryover of Annual Paid Leave on an Hourly Basis)
Article 5 Unused annual paid leave on an hourly basis may be carried over to the following fiscal year, but the maximum number of days for which annual paid leave may be acquired on an hourly basis in the following fiscal year is five days including the number of days carried over.

YY/MM/DD

XX Co., Ltd.
CEO, ○○○○○○○ Seal
Representative of the workers, ○○○○○○○ Seal

8. Securing of Annual Paid Leave for Five Days per Year

Annual paid leave is to be granted at the timings requested by each worker, in principle. However, due to consideration to others in the workplace or other reasons, workers often hesitate to take leave and the percentage of granted leave actually taken remains low. Encouraging workers to take annual paid leave is one of the challenges.

The Labor Standards Act was therefore amended, and since April 2019, employers of all companies came to be required to have workers who are granted annual paid leave not less than ten days surely take leave for five days per year by designating the timings.

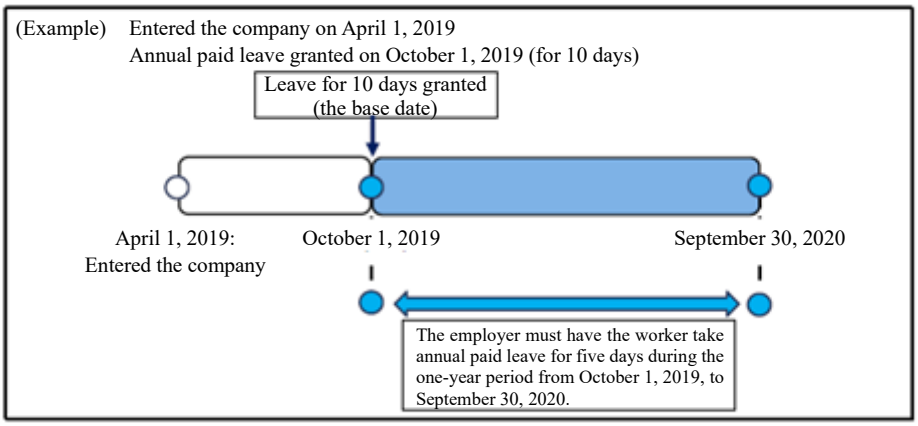
(1) Eligible workers

Workers who are granted annual paid leave not less than ten days

Supervisors and fixed-term workers are also included.

(2) Obligation to designate the timings to take leave for five days per year

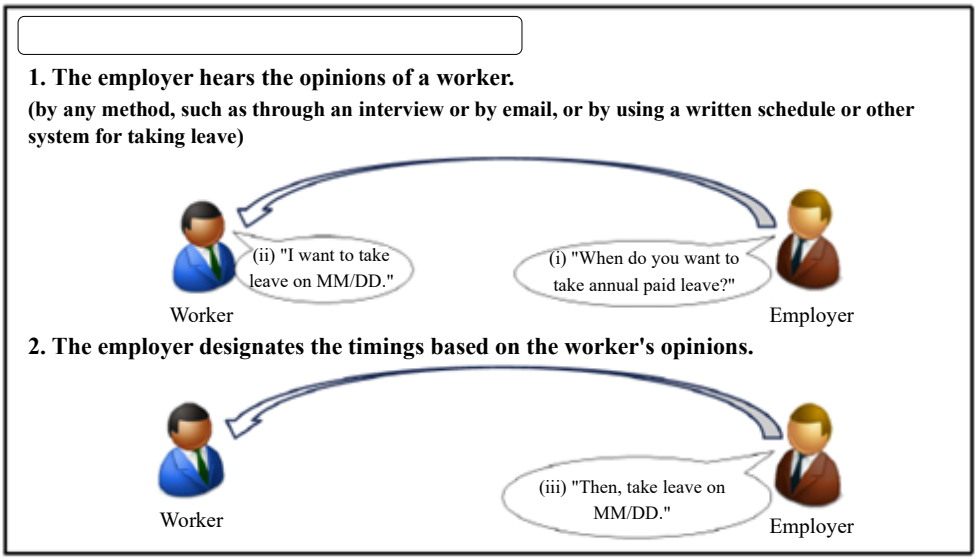
An employer must have each worker take annual paid leave for five days within one year from the day of granting him/her annual paid leave (the base date) by designating the timings to take leave.



(3) Method of designating the timings

An employer must hear the opinions of a worker when designating the timings.

Then, the employer must endeavor to respect such opinions so that the timings are in line with the worker's wishes to the extent possible.



(4) Cases where designation of the timings for leave is not required

With regard to a worker who has already requested and taken annual paid leave for five days or more, the employer does not need to and may not designate the timings for leave.

(*) The number of days of annual paid leave that each worker requests and takes discretionally and the number of days of annual paid leave granted to him/her by designating dates in a planned manner under a labor-management agreement must be deducted from these five days per year which an employer is obliged to grant to each worker by designating the timings.

9. Carryover and Purchase of Annual Paid Leave

Annual paid leave expires in two years from the day upon which it is granted. Any days of annual paid leave not used within that year are carried over to the following fiscal year (Article 115 of the Labor Standards Act).

Workers should naturally take annual paid leave to get rest. If an employer purchases workers' annual paid leave in advance and does not allow them to take leave, such act constitutes a violation of the Labor Standards Act.

10. Wages to be Paid for Annual Paid Leave

An employer must pay any of the following to a worker who has taken annual paid leave, as prescribed in the rules of employment or other agreements.

[i] Average wage

The amount obtained by dividing the total wages for the last three months (excluding special wages and bonuses) by the number of days during that three-month period, in principle (see "Chapter 8: VIII. Average Wage")

[ii] Normal wages

The amount paid by deeming that the worker worked as usual on the relevant day

[iii] The amount of standard daily remuneration under the Health Insurance Act (only when prescribed in a labor-management agreement)

The most common method is to pay normal wages as mentioned in [ii].

An employer is not allowed to give workers who have taken annual paid leave disadvantageous treatment such as wage reduction (Article 136 of the Labor Standards Act). .

11. Annual Paid Leave Management Book

An employer must prepare a book to manage annual paid leave for each worker (a document clarifying the timings and dates for leave and the base date for each worker) and preserve it during the period of the relevant leave and for three years after the end of that period. (An annual paid leave management book may be incorporated into the roster of workers or the wage ledger. It is also permitted to manage workers' annual paid leave on a system after putting in place a mechanism to enable data output at any time.)

IV. Systems for Leave and Absence from Work, Guarantee of Civil Rights

1. Systems for Leave and Absence from Work

Most companies put in place original leave systems, in addition to the statutory systems for leave and absence from work.

Representative systems include those for sick leave and congratulatory or condolence leave (for marriage, childbirth, death of a relative, etc.). In recent years, some companies introduce unique leave systems, such as 'refresh leave' and anniversary leave.

When a company has introduced these leave systems, the details thereof must be clarified in the rules of employment (mandatory information to be stated in the rules of employment), and the company must clearly determine eligible workers, the number of days to be granted as leave, whether it is paid leave or not or other matters.

There are no legal rules concerning whether the following statutory leave and holidays should be paid or not, and the details need to be decided independently in the rules of employment.

[i] Maternity leave before and after childbirth (Article 65 of the Labor Standards Act: If a female worker who is expected to give birth within six weeks (or 14 weeks in the case of multiple pregnancy) requests leave, an employer is not allowed to make her work, and an employer is also prohibited from making a female worker work within eight weeks after childbirth. However, if a female worker who gave birth not less than six weeks ago makes a request, an employer is allowed to assign her with work permitted by a doctor.)

[ii] Menstrual leave (Article 68 of the Labor Standards Act: If a female worker for whom work during the menstrual period would be especially difficult requests leave, an employer may not make the female worker work during the menstrual period.)

[iii] Child care leave (Article 5 of the Child Care and Family Care Leave Act: A worker (irrespective of gender) can take child care leave for his/her child for a period as he/she requests until the child reaches one year of age. If there are special circumstances, a worker can take child care leave until the child reaches two years of age.)

Parental leave (fathers' child care leave) (Article 9-2 of the Child Care and Family Care Leave Act: A male worker can take parental leave for up to four weeks within eight weeks after childbirth, separately from child care leave.)

[iv] Family care leave (Article 11 of the Child Care and Family Care Leave Act: If any of a worker's spouse, parents or children (including grandparents, siblings and grandchildren as their equivalents), or the spouse's parents is in need of regular nursing care for two weeks or longer due to an injury, disease or mental or physical disorder, the worker can take leave to provide care for that family member.)

[v] Sick/injured child care leave (Article 16-2 of the Child Care and Family Care Leave Act: A worker can take sick/injured child care leave by making a request.)

[vi] Nursing leave (Article 16-5 of the Child Care and Family Care Leave Act: A worker can take nursing leave by making a request.)

[vii] Leave for child care-related purposes (Article 24 of the Child Care and Family Care Leave Act: An employer is obliged to make efforts to provide leave that workers can use for child care-related purposes.)

2. Leave in Lieu of Premium Wages (Substitute Leave)

If an employer has had workers work overtime for 60 hours or more per month, in excess of the statutory working hours, the employer may grant paid leave (substitute leave) under a labor-management agreement, for the purpose of preventing especially long overtime work, instead of paying them premium wages at a statutory raised premium wage rate (50% or more) (Article 37, paragraph (3) of the Labor Standards Act).

Incidentally, SMEs are exempted from the application of a statutory raised premium wage rate until March 31, 2023, and therefore are not allowed to introduce this substitute leave system.

< Matters concerning substitute leave to be specified in a labor-management agreement >

A. Calculation method of the number of hours to be granted as substitute leave (Article 19-2 of the Regulation for Enforcement of the Labor Standards Act)

A premium wage must be 50% or more when a worker has not taken substitute leave, and must be 25% or more when a worker has taken substitute leave. These rates need to be clarified in the rules of employment.

Number of hours of substitute leave = (Number of hours of overtime work per month − 60 hours) × Conversion factor

Conversion factor = A premium wage rate in a case where a worker has not taken substitute leave (50% or more) − A premium wage rate in a case where a worker has taken substitute leave (25% or more)

B. Unit of substitute leave (Article 19-2 of the Regulation for Enforcement of the Labor Standards Act)

Substitute leave is to be on a daily or half-day basis from the perspective of providing workers with opportunities to get rest by granting leave in an aggregate unit. On a daily basis means to be based on workers' regular daily working hours and on a half-day basis means to be based on the half thereof. However, the unit of a half day may not strictly be half of the regular daily working hours and should be defined between labor and management.

It is also possible to grant substitute leave in combination with annual paid leave on an hourly basis.

C. Period during which substitute leave can be granted (Article 19-2 of the Regulation for Enforcement of the Labor Standards Act)

Labor and management should negotiate and agree on the period within two months from the day following the last day of the month in which overtime work exceeded 60 hours from the perspective of granting leave to workers to get rest within a period close to the month in which they worked overtime for especially long hours. When overtime work exceeded 60 hours for two months in a row, it is possible to grant substitute leave collectively for the previous month and the month before.

D. Substitute leave date and premium wage payment date

The following must be specified from the perspective of determining the wages early.

[i] Method of deciding the date to take substitute leave based on workers' will

Workers' intentions are to be confirmed within a period as short as possible, but whether to take substitute leave or not is up to workers.

[ii] Date to pay premium wages for overtime work in excess of 60 hours per month

When a worker intends to take substitute leave, the employer must pay premium wages currently obliged (at a rate of 25% or more) on the date to pay normal premium wages.

If a worker had intended to take substitute leave but could not, the employer must pay premium wages for the working hours corresponding to that substitute leave on the date to pay wages for the period for which it became clear that the worker would not be able to take substitute leave.

When a worker does not intend to take substitute leave or when a worker's intention cannot be confirmed, the employer must pay premium wages at a rate of 50% or more on the date to pay normal wages.

A labor-management agreement may also include the provisions to the effect that if a worker takes substitute leave after receiving the payment of premium wages, the employer may make up for the excess of those wages.

E. Relationship between substitute leave and annual paid leave

Substitute leave is different from annual paid leave.

Days on which a worker took substitute leave are not included in the total number of working days which serves as the base for calculating the number of days to be granted as annual paid leave.

Agreement on Substitute Leave in Lieu of the Payment of Premium Wages for Overtime Work in Excess of 60 Hours per Month

*** This example is based on the premise that regular daily working hours are 7 hours and 45 minutes (from 8:15 to 17:00 with a one-hour break from 12:00 to 13:00).**

○○ Co., Ltd. and ○○ Labor Union agreed as follows concerning substitute leave to be granted in lieu of premium wages (hereinafter "substitute leave") for overtime work in excess of 60 hours per month (meaning a unit period for wage payment; hereinafter the same).

(Relationship between Substitute Leave and Premium Wages)

Article 1 (1) A worker who has worked overtime in excess of 60 hours per month may take substitute leave for the excess portion of the working hours in lieu of premium wages for that portion as specified in this agreement.

(2) When a worker has taken substitute leave, the company does not pay premium wages for the portion exceeding 60 hours.

(Calculation Method of the Number of Hours to be Granted as Substitute Leave)

Article 2 The number of hours to be granted as substitute leave is calculated as follows.

The number of hours ＝ (Monthly hours of overtime work - 60 hours) × 0.25

(Unit of Substitute Leave)

Article 3 (1) Substitute leave is to be taken on a daily or half-day basis.

(2) A half-day leave in the morning is counted as 3 hours and 45 minutes and a half-day leave in the afternoon is counted as 4 hours.

(3) When a worker wishes, substitute leave on a daily or half-day basis may be taken in combination with annual paid leave on an hourly basis (must separately conclude an agreement) as a one-day leave, half-day leave in the morning or half-day leave in the afternoon.

(Period during which Substitute Leave may be Taken)

Article 4 (1) Substitute leave may be taken within two months from the day following the last day of the month in which overtime work exceeded 60 hours.

(2) The numbers of hours to be granted as substitute leave may be totaled for two consecutive months in which overtime work exceeded 60 hours.

(3) When the sum of the hours totaled as mentioned in the preceding paragraph is less than 3 hours and 45 minutes, the relevant worker may not take substitute leave. However, this does not apply when a worker wishes to take substitute leave in combination with annual paid leave and becomes eligible for leave on a daily or half-day basis.

3. Guarantee of Civil Rights

Separately from days off, leave, and absence from work mentioned so far, an employer must not refuse a worker's request for time necessary to exercise the right to vote and other civil rights or to perform public duties during working hours (Article 7 of the Labor Standards Act).

However, an employer may change the time thus requested by a worker as long as such change does not hinder the exercise of those rights or the performance of those public duties.

There are no legal rules concerning whether such time for exercising civil rights should be paid or not, and the details need to be decided independently in the rules of employment.

Major civil rights are as follows.

[i] Right to vote and right to hold office

[ii] Right to participate in national review of Supreme Court justices

[iii] Right to participate in local referendum for special acts

[iv] Right to participate in national vote for constitutional revision

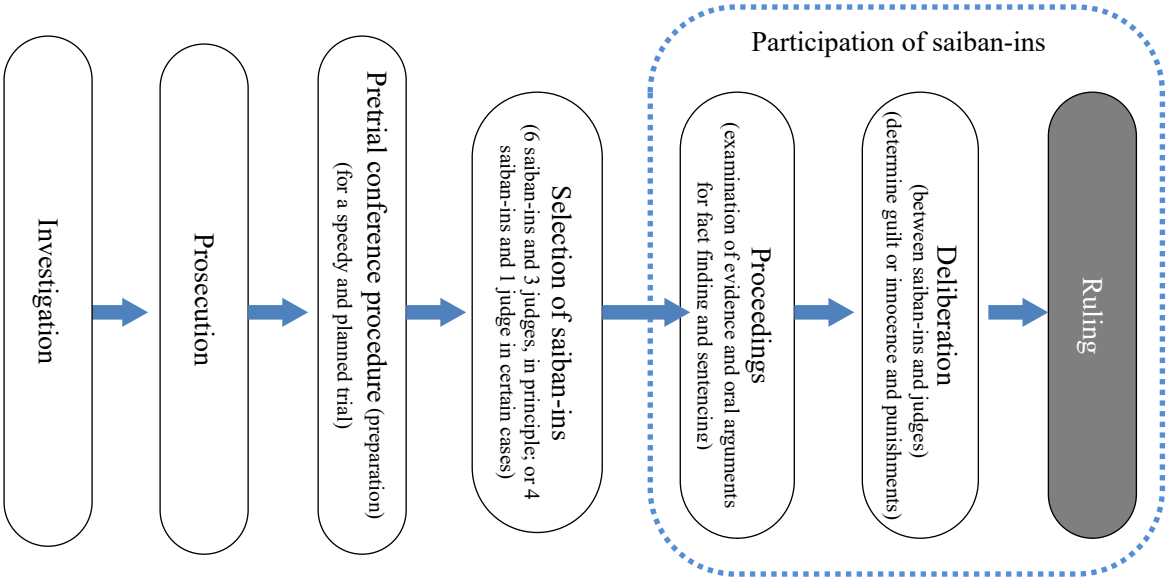
[v] Right to file a direct petition from a resident

[vi] Right to apply for registration in the pollbook

[vii] Public duties as a candidate saiban-in, saiban-in, or alternate saiban-in

The saiban-in system started on May 21, 2009, and duties as a saiban-in, etc. fall under public duties specified in Article 7 of the Labor Standards Act. Accordingly, if an employee makes a request, the employer must provide him/her with time necessary to perform the relevant duties.

< Reference > Court proceedings under the saiban-in system



< Reference > Selection and appointment of saiban-ins

(1) A notice that the names have been registered in a list of saiban-in candidates is given to listed persons.

(2) Candidate saiban-ins are selected by lot for each case from among the list (by six weeks prior to the trial, in principle).

A notice of the date for appointment procedures (a writ of summons) is sent together with questionnaires to selected candidate saiban-ins (for cases that can be concluded in five days or less, a notice is generally sent to approximately 70 candidates for each case).

(3) On the date for appointment procedures, six saiban-ins, in principle, are appointed.

Candidate saiban-ins who have not expressed their intention to decline when answering the questionnaire or whose intention to decline was not confirmed with their answers to the questionnaires are supposed to come to the court on the date for appointment procedures.

In the end, six saiban-ins, in principle (and some alternate saiban-ins, if necessary), are appointed for each case.

Chapter 6: Exclusion from Application of Provisions on Working Hours, Rest Periods and Days Off

I. Exclusion from Application of Provisions on Working Hours, Rest Periods and Days Off

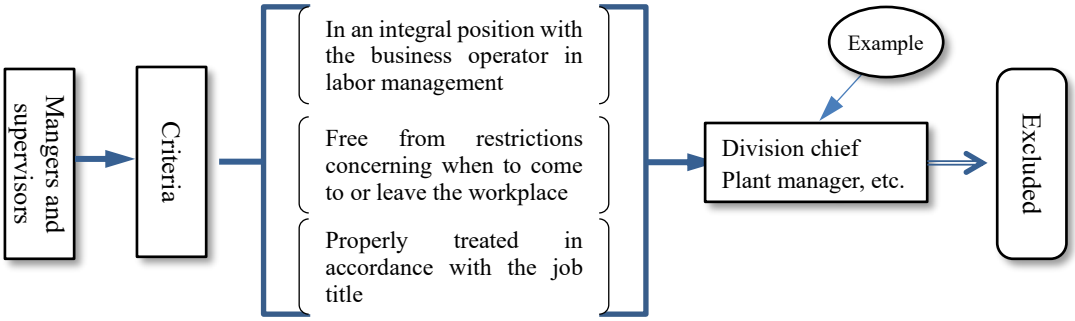
The provisions of the Labor Standards Act concerning working hours, rest periods and days off, which have been explained so far, do not apply to "persons in positions of supervision or management," "persons handling confidential affairs," or "persons engaged in monitoring or in intermittent labor" (Article 41 of the Labor Standards Act 41).

However, the granting of annual paid leave and premium wages for work at night are also applied to these persons.

1. Persons in Positions of Supervision and Management (Managers and Supervisors)

As persons in positions of supervision and management need to work in an integrated manner with the business operator, regulations concerning working hours do not apply to these persons. Who falls under managers and supervisors in the workplace is to be judged based on the actual circumstances, irrespective of job titles.

Judgment criteria are as follows.



Public Notices issued by the Health and Welfare Ministry state that "the term, 'persons in positions of supervision or management,' generally refers to a division chief, plant manager, or other persons who have an integrated position with the business operator in deciding working conditions or otherwise managing workers, and the scope should be judged based on the actual circumstances, irrespective of persons' job titles," specifically based on the following ideas (Hatsuki No.17 of September 13, 1947; Kihatsu No.150 of March 14, 1988).

(1) Principle

Legally prescribed working conditions, such as working hours, rest periods and days off, are minimum standards. When an employer has workers work beyond these standards, the employer must pay premium

wages as prescribed by the law. This is the very basic principle common to all workers. Persons with job titles who were appointed by companies from the necessity of personnel management or based on operational policies are not always deemed to be managers or supervisors and exceptional treatment is not necessarily permitted.

(2) Purport of exclusion from application

Out of persons with managerial job titles, only those who have significant duties and responsibility requiring them to work beyond the regulations concerning working hours, rest periods and days off and who are actually in the position not suited to such regulations are excluded from the application under Article 41 of the Labor Standards Act. Therefore, the scope of excluded persons must be limited to that extent.

(3) Judgment based on the actual circumstances

In general, companies manage personnel in accordance with titles corresponding to the details of the duties and the authority, etc. (hereinafter referred to as "job titles") and ratings based on experience and ability, etc. (hereinafter referred to as "qualifications"). However, when determining the scope of the managers and supervisors, a focus should be placed on the details of duties, responsibility, authority and working patterns of respective persons, irrespective of their qualifications and job titles.

(4) Consideration to treatment

In addition to the above, wages and other granted treatment are important factors to be taken into consideration when judging whether a person falls under a manager or supervisor. In this case, attention should be paid to whether a person receives regular fixed remuneration, such as basic wages and executive allowances, suited to the position, the payment rates of bonuses or other lump-sum payments, and whether any preferential measures are taken for a person compared with other ordinary workers regarding basic wages, which serve as the base for calculating lump-sum payments, or other factors. However, even if some preferential measures are taken in comparison with other ordinary workers, a person having a job title without substance is not included in a manager or supervisor.

Regarding the issue of nominal managers and supervisors, the judgment rendered on the McDonald's Japan case (Tokyo District Court on January 28, 2008) attracted social attention. In response to this judgment, the Ministry of Health, Labour and Welfare issued a Public Notice (Kihatsu No.0909001 of September 9, 2008) and presented "concrete criteria for judging whether a person falls under a manager or supervisor in the multi-store retail and restaurant businesses, etc." (Concrete criteria are as shown in the following table.)

Concrete criteria for judging whether a person falls under a manager or supervisor in the multi-store retail and restaurant businesses, etc.

With regard to the "details of the duties, responsibility and authority," "working patterns," "wages and other treatment" of managers and supervisors, which were presented in Hatsuki No.17 of September 13, 1947, and Kihatsu No.150 of March 14, 1988, characteristic factors to be taken into consideration when judging whether a shop manager, etc. can be deemed as a manager or supervisor are compiled as follows, in light of the actual circumstances of multi-store retail and restaurant businesses, etc.

	Significant factors that deny the nature as a manager or supervisor	Reinforcing factors
Details of the duties, responsibility and authority	[i] Have no responsibility and authority in employing part-timers [ii] Dismissal of part-timers is not included in assigned duties and is substantially uninvolved [iii] Evaluation of subordinates is not included in assigned duties and is substantially uninvolved [iv] Have no responsibility and authority in preparing a shift roster and ordering overtime work	
Working patterns	[i] Subject to disadvantageous treatment, such as wage cut and negative evaluation due to being late or leaving earlier	[i] Forced to work long hours, having substantially little discretion over working hours [ii] Mostly working in a pattern similar to subordinates who are subject to regulations on working hours
Wages and other treatment	[i] Wages converted into hourly rates are lower than those of part-timers. [ii] Wages converted into hourly rates are lower than the statutory minimum wage	[i] Preferential measures such as executive allowances are not enough in consideration of the fact that premium wages are not paid, and thus the company fails to sufficiently protect the relevant worker. [ii] The total of the annual wages is equal or even lower than that of ordinary workers.

Judge comprehensively by also taking into consideration other factors

2. Persons Handling Confidential Affairs

Persons handling confidential affairs do not necessarily refer to persons who handle confidential documents, but include secretaries and other persons whose duties are closely connected with activities of the business operator or managers and supervisors and who are not subject to strict regulations on such matters as times to come to and leave the office.

3. Persons Engaged in Monitoring or in Intermittent Labor

(1) Monitoring labor

Labor in which a worker is basically supposed to perform monitoring duties at a department and normally has little physical or mental strain, such as a job of a gate keeper

(2) Intermittent labor

Labor in which a worker is basically supposed to work intermittently and that has longer waiting time and shorter working time than ordinary labor, such as a job of a resident assistant or cook at a dormitory

(3) Permission of the Director-General of the competent Labour Standards Inspection Office

As working patterns vary for both (1) and (2) above, it is not appropriate to let employers make judgments in a subjective manner. Accordingly, in order to exclude persons engaged in labor mentioned in (1) or (2) from the application of the provisions on working hours, rest periods and days off, it is necessary to obtain permission from the Director-General of the competent Labour Standards Inspection Office.

II. Exclusion from Application of Provisions on Working Hours, Rest Periods, Days Off and Premium Wages for Work at Night / High-level Professional System

(1) High-level professional system

The high-level professional system, which targets workers with advanced expert knowledge, etc. for whom the scope of duties is clear and who satisfy requirements for a certain level of annual income, excludes such workers from application of provisions of the Labor Standards Act concerning working hours, rest periods, days off and premium wages for work at night, on the premise of a resolution made by a labor-management committee and the consent of workers themselves, by obliging employers to take measures to secure days off not less than 104 days per year and measures to secure the health and welfare of such workers in accordance with the conditions of the time requiring health management.

(2) Coverage of the high-level professional system

A. Covered workers

(A) Their duties are clearly determined based on an agreement with the employer.

(B) The amount of annual wages expected to be surely paid by the employer is not less than 10.75 million yen.

(C) Only workers solely engaging in determined duties on a regular basis are covered and those also engaging in other duties on a regular basis are excluded.

B. Covered duties

(A) Workers need to engage in determined duties without receiving specific instructions from the employer regarding working hours.

(B) Concrete duties covered under the system are as follows (see the leaflet "Easy-to-Understand Explanations of the High-level Professional System" for examples of covered and uncovered duties).

(i) Development of financial instruments using knowledge of financial engineering, etc.

Create and update probabilistic models, etc. using knowledge of financial engineering, statistics, mathematics, economics and the like with the aim of gaining profits more efficiently while reducing transaction risks, and develop new financial instruments by employing techniques of conducting simulations based on such models and verifying the results thereof

(ii) Asset management (including instructions; hereinafter the same) or sale and purchase or other transactions of securities, especially based on investment decisions, or sale and purchase or other transactions of securities based on investment decisions on one's own account

Conduct asset management or sale and purchase or other transactions of securities based on one's own investment decisions fully utilizing knowledge of the financial business

(iii) Analysis and evaluation of trends of securities markets or value of securities and provision of advice based on such analysis and evaluation

Conduct analysis by applying advanced expert knowledge on securities and analytical techniques, make evaluations based on the results of such analysis, and provide advice on investment in securities to fund managers based on one's own analysis or evaluation results

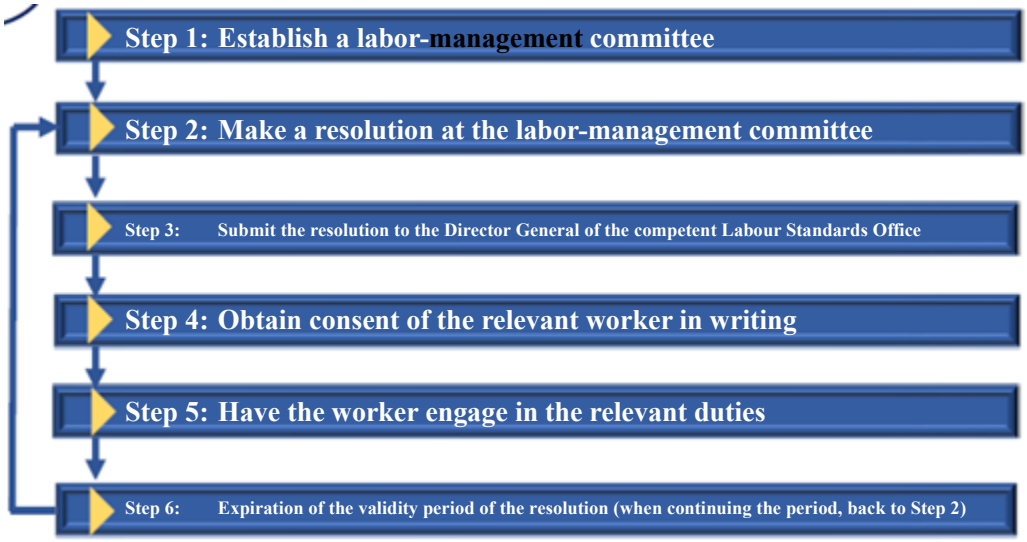
(iv) Investigation or analysis of significant matters on a customer's business operations and consideration and provision of advice on such matters based on investigation or analysis results

Investigate or analyze business operations of a company, make proposals to the company concerning operational reforms directly linking to its management strategies, such as restructuring of business and services and reforms of personnel or other internal systems, and offer advice and support for the achievement thereof

(v) Research and development of new technologies**, products or services**

Conduct research and development of new technologies and build a management method by introducing new technologies, and conduct research and development of new materials and new models and services, for the purpose of encouraging persons with professional and scientific knowledge or technologies to further obtain new knowledge or make technological improvements, thereby having them create new value

(3) Procedures for introducing the high-level professional system



(4) Measures to secure good health of workers covered under the high-level professional system

An employer must take the following measures (i) to (iv) for workers covered under the high-level professional system.

(i) Ascertain the time requiring health management	The employer must objectively ascertain the time requiring health management (time during which a worker was in the workplace + time during which a worker worked outside the workplace) based on each worker's time card or hours of having used a PC or other objective data
(ii) Secure days off	The employer must grant a worker not less than 104 days off per year, or not less than four days off for a four-week period.
(iii) Selective measures	The employer must decide measures equivalent to any of the following as a resolution and implement them: 1. Secure an interval (not less than 11 hours) between work shifts and limit the frequency of night work (four times or less per month) 2. Set the upper limit for the time requiring health management (The total of the portions in excess of 40 hours per week must be 100 hours or less per month or 240 hour or less per three months.) 3. Grant a two-week-long leave at least once per year (or a one-week-long leave on two occasions, upon a worker's request) 4. Conduct an occasional health checkup (for workers for whom the total of the portions of the time requiring health management in excess of 40 hours per week exceeded 80 hours per month and those who made a request)
(iv) Measures to secure workers' health and welfare in accordance with the conditions of health management time	The employer must decide any of the following measures as a resolution and implement them: 1. Any of the selective measures mentioned in (iii) above (other than those decided as a resolution) 2. Provide an interview and guidance by physicians 3. Grant substitute days off or special leave 4. Establish an office to offer counseling on mental and physical health problems 5. Conduct personnel transfers appropriately 6. Provide advice or health guidance by industrial physicians, etc.

(*) Guidelines were formulated in order to secure proper working conditions for workers covered under the high-level professional system. Members of a labor-management committee who make a resolution must ensure that the content of their resolution complies with the Guidelines. See the Guidelines upon introducing the system at each workplace.

Chapter 7: Overtime Work and Work on Days Off

I. Overtime Work and Work on Days Off

1. Overtime Work and Work on Days Off

(1) Overtime work

To have workers work in excess of the statutory daily or weekly working hours

(2) Work on days off

To have workers work on a statutory day off (one day off per week or any of the four days off in a four-week period)

2. When Concluding an Agreement on Overtime Work and Work on Days Off (So-called Agreement under Article 36)

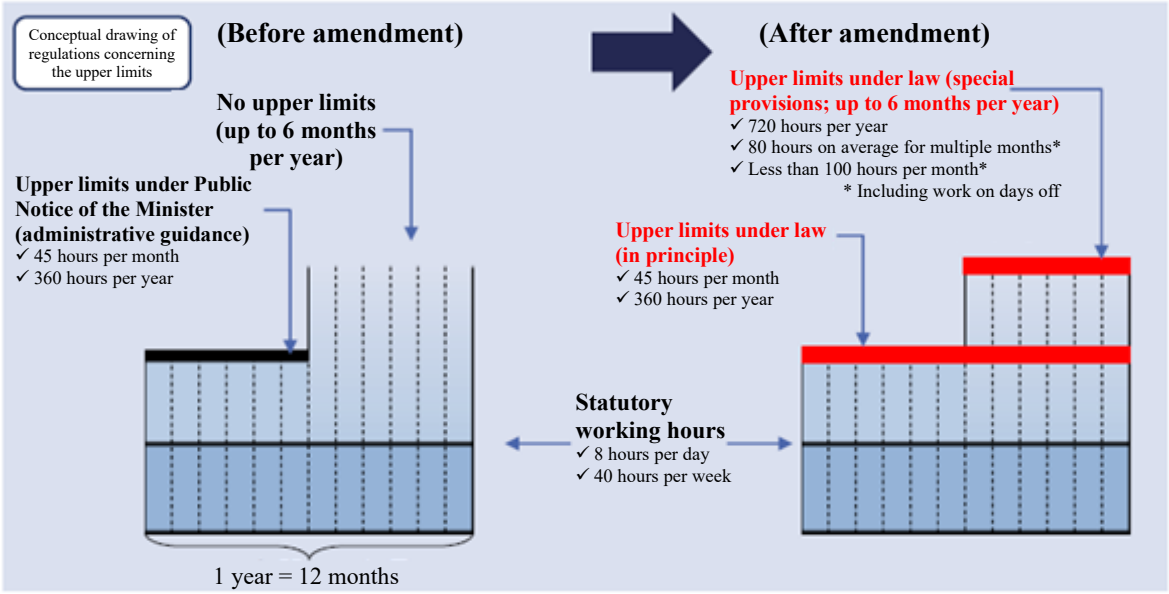
(1) Unless an employer concludes a labor-management agreement in writing with a representative of workers and submits the written agreement to the Director-General of the competent Labour Standards Inspection Office, the employer may not have workers work overtime in excess of the statutory working hours within the scope stipulated in the agreement or have workers work on a statutory day off (Article 36 of the Labor Standards Act). For the method of selecting a representative of workers for concluding an agreement under Article 36, see "Chapter 14, IV. Hearing of the Opinions from a Representative of Workers."

(Note) Even if an agreement under Article 36 has been concluded, it is generally necessary to specify concrete grounds permissible for having workers work overtime in the rules of employment, a collective agreement or an individual labor contract, etc. in order to force workers work overtime.

(2) An agreement under Article 36 must be concluded for one day, one month, and one year. Additionally, an agreement may also be concluded for a period exceeding three months but less than one year.
The Labor Standards Act does not provide for the upper limit for daily hours of overtime work to be specified in an agreement under Article 36, except for work particularly harmful to health (up to two hours).

(3) Until recently, upper limits for overtime work to be specified in an agreement under Article 36 were determined by a Public Notice of the Minister of Health, Labour and Welfare, but it was possible for an employer to have workers work overtime in excess of those upper limits by concluding an agreement under Article 36 with special clauses, when special circumstances that would temporarily require such overtime work were expected.

(*) Standards for Limits on the Extension of Working Hours Set Forth in the Agreement Provided in Paragraph (1) of Article 36 of the Labor Standards Act (Public Notice on Standards for Limits)



Through the latest amendment, upper limits for overtime work were legally determined as 45 hours per month and 360 hours per year and it was made impermissible to exceed these limits unless there are any temporary special circumstances.

Even under temporary special circumstances and where there is a labor-management agreement (special clauses), the following must be observed.

- Annual total hours of overtime work do not exceed 720 hours.
- Monthly total hours of overtime work and work on days off are less than 100 hours.
- Monthly averages of the total hours of overtime work and work on days off for the periods of 2 months, 3 months, 4 months, 5 months, and 6 months all do not exceed 80 hours.
- Monthly total hours of overtime work may exceed 45 hours for up to six months per year.
- Punishment (imprisonment for not more than 6 months or a fine not more than 0.3 million yen) may be imposed for a violation of any of the above.

(Note) Irrespective of whether an agreement contains special clauses or not, monthly total hours of overtime work and work on days off must be less than 100 hours and monthly averages for the periods of 2 months to 6 months must not exceed 80 hours throughout the year.

(*) For example, even if monthly overtime work totals less than 45 hours and special clauses are not applicable, when the overall monthly total exceeds 100 hours (e.g., overtime work totaling 44 hours and work on days off totaling 56 hours), it falls under a violation of law.

(4) The application of the upper limits is suspended or exempted for some businesses and services.

The application of the upper limits is suspended for five years for the following businesses and services.

<table>
<tr><th>Businesses/services</th><th>During the grace period (up to March 31, 2024)</th><th>After the grace period (April 1, 2024, onward)</th></tr>
<tr><td>Construction</td><td rowspan="3">The upper limits are not applied.</td><td>● The upper limits are applied except for reconstruction and recovery work after disasters.
● With regard to reconstruction and recovery work after disasters, the regulations requiring the following are not applied:
✓Monthly total hours of overtime work and work on days off must be less than 100 hours.
✓Monthly averages for the periods of 2 months to 6 months must not exceed 80 hours.</td></tr>
<tr><td>Driving of automobiles</td><td>● The upper limit for overtime work when concluding an agreement under Article 36 with special clauses should be 960 hours per year.
● The regulations requiring the following are not applied:
✓Monthly total hours of overtime work and work on days off must be less than 100 hours.
✓Monthly averages for the periods of 2 months to 6 months must not exceed 80 hours.
● The regulations to limit the number of months in which the total hours of overtime work may exceed 45 hours to six months per year are not applied.</td></tr>
<tr><td>Physicians</td><td>Concrete upper limits will be specified later by Ministerial Order.</td></tr>
<tr><td>Sugar production in Kagoshima and Okinawa prefectures</td><td>The regulations requiring the following are not applied:
✓Monthly total hours of overtime work and work on days off must be less than 100 hours.
✓Monthly averages for the periods of 2 months to 6 months must not exceed 80 hours.</td><td>The upper limits are applied in full.</td></tr>
</table>

Research and development of new technologies and products, etc. are exempted from the application of the upper limits.

(5) Even under an agreement with special clauses, an employer is not allowed to have minors aged under 18 work overtime or on days off.

(6) Effective term

An effective term must be determined for an agreement under Article 36. However, as the covered period is limited to one year, an effective term should naturally be one year at the shortest, in principle. It is preferable to set an effective term to be one year, as an agreement needs to be reviewed periodically.

< Matters to be decided by an agreement under Article 36 >

When there is a need to have workers work overtime or on days off, an employer must agree on the following matters with workers and submit a written notification of an agreement under Article 36 (in Form 9) to the Director-General of the competent Labour Standards Inspection Office.

<table>
<tr><th colspan="3">Matters that need to be agreed in a new agreement under Article 36</th></tr>
<tr><td colspan="3">Cases where the employer may extend working hours or have workers work on a day off</td></tr>
<tr><td colspan="3">Scope of workers for whom the employer may extend working hours or order work on a day off</td></tr>
<tr><td>Covered period (limited to one year)</td><td>Starting date for the one year</td><td>Effective term</td></tr>
<tr><td colspan="3">Number of working hours that the employer may extend or number of days off on which the employer may have workers work per day, per month, and per year during the covered period</td></tr>
<tr><td colspan="3">The total of overtime work and work on days off is to satisfy the following requirements:
✓Monthly total hours are less than 100 hours.
✓Monthly averages for the periods of 2 months to 6 months do not exceed 80 hours.</td></tr>
</table>

When there is a need to have workers work overtime in excess of the principle upper limits for overtime work (45 hours per month and 360 hours per year) under temporary special circumstances, an employer must further agree on the following matters with workers and submit a written notification of an agreement under Article 36 (in Form 9-2) to the Director-General of the competent Labour Standards Inspection Office.

Matters that need to be agreed in a new agreement under Article 36	
When exceeding the upper limits	In the case where there is a need to have workers work in excess of the upper limits on a temporary basis, ✓Monthly total hours of overtime work and work on days off (less than 100 hours) ✓Annual total hours of overtime work (720 hours of less)
	Number of times where overtime work in excess of the upper limits is permitted (6 times or less per year)
	Cases where the employer may have workers work in excess of the upper limits
	Measures to secure the health and welfare of workers to be engaged in work in excess of the upper limits
	Premium wage rates for work in excess of the upper limits
	Procedures for having workers work in excess of the upper limits

During the period for transitional measures, the former regulations remain applicable.

3. Cases of Extraordinary Need Due to Disasters, etc.

If there is an extraordinary need due to a disaster or other unavoidable events, employers may temporarily make workers work overtime or on days off to the extent that is needed (Article 33 of the Labor Standards Act).

However, this is only an exception upon a disaster or other unavoidable events and is not permitted only on the grounds of being busy or on other normally predicted grounds.

Additionally, in this case, an employer must obtain permission from the Director-General of the competent Labour Standards Inspection Office in advance, or when it is urgent and an employer does not have time to obtain the permission, he/she must file a notification ex post facto without delay.

This provision concerning cases of extraordinary need also applies to minors, and an employer may have minors work overtime, on days off or at night to the extent that is needed.

Chapter 8: Wages

I. Definition of Wages

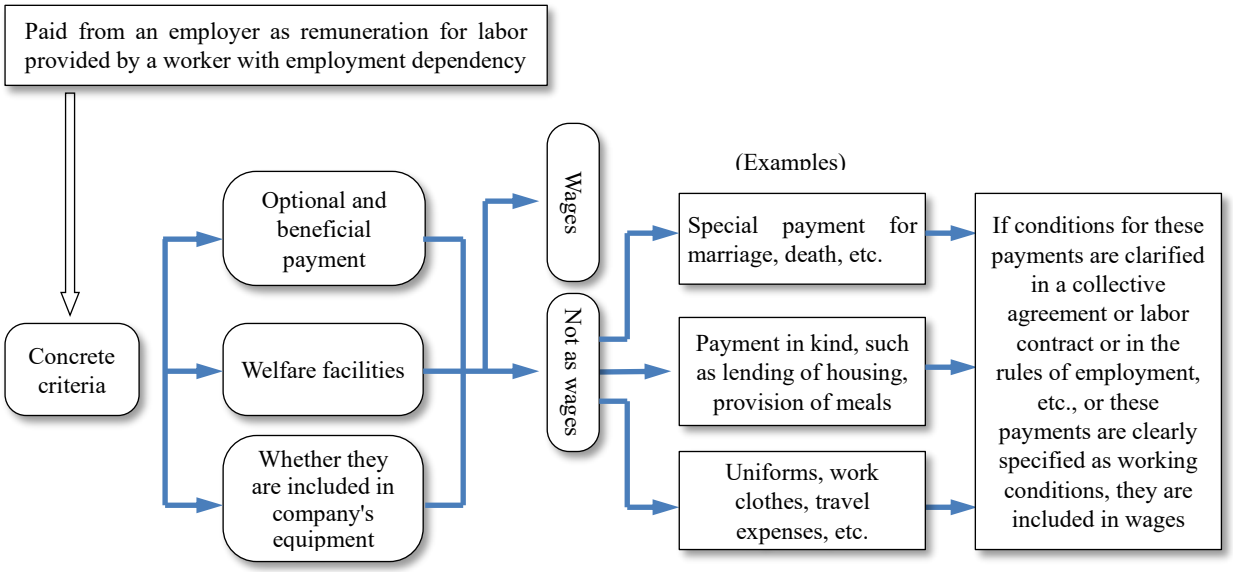
Article 11 of the Labor Standards Act defines wages as "the wage, salary, allowance, bonus and all other kinds of payment made from an employer to a worker as remuneration for labor, regardless of the name which such payment is given."

In other words, payments satisfying the following two requirements all fall under the category of wages, irrespective of their name:

[i] paid from an employer to a worker; and

[ii] paid as remuneration for labor.

Retirement allowances for which conditions for payment are clarified in the rules of employment, etc. are also included.



II. Decision of Wages

How to decide wages and concrete amounts are to be basically decided freely based on an equal standing of labor and management, but the following points need to be noted.

[i] Discriminatory treatment by reason of the nationality, creed or social status of a worker is prohibited (Article 3 of the Labor Standards Act).

[ii] Discriminatory treatment of women by reason of sex is prohibited (Article 4 of the Labor Standards Act).

[iii] The amount of wages must not be set below the minimum wages specified under the Minimum Wage Act (Article 4 of the Minimum Wage Act)

(See "IX. Minimum Wages" of this Chapter for minimum wages.)

III. Five Principles of Payment of Wages

Article 24 of the Labor Standards Act specifies the five principles, stating that an employer must pay wages "in currency" and "in full" "directly to workers" "at least once a month" and "on a definite date" to ensure that workers themselves can surely receive wages every month.

(1) Principle of payment in currency

A. Prohibition of payments in kind

Wages must be paid in currency. Payments in kind are prohibited in principle. However, if a law or collective agreement otherwise provides for in-kind wage, wages may be paid with something other than currency.

B. Transfer into savings accounts

When a worker gives consent, wages may be paid through transfer into a savings account in a bank or other financial institution or general securities account under the worker's name as designated by the worker.

Transfer into savings accounts has become legally admitted as an official method of paying wages on the condition of obtaining consent from a worker him/herself, but must be conducted [i] based on consent of the worker (in any form), [ii] into an account under the worker's name (an account under the name of the worker's spouse or child is not permitted), [iii] so that the wages may be withdrawn by 10:00 on the payment date (Kihatsu No.530 of September 10, 1998)

C. Payment of retirement allowances by check, etc.

When a worker gives consent, retirement allowances may be paid through transfer into a savings account or general securities account or by delivering a check issued or guaranteed by a bank or other financial institution or a postal money order.

(2) Principle of payment directly to workers

A. Wages must be paid directly to a worker.

B. It is prohibited to pay wages via another person or to an agent of a worker.

However, when a worker is absent due to illness or other reasons, it is permissible to pay wages to his/her family or other person who is found to have been sent by the worker him/herself.

C. Wages for a minor must not be received by a person who has parental authority for, or is the legal guardian of, the minor (Article 59 of the Labor Standards Act).

However, when a worker is absent due to illness or other reasons, it is permissible to pay wages to his/her family or other person who is found to have been sent by the worker him/herself.

(3) Principle of payment in full

Wages must be paid in full without deducting a part thereof.

However, partial deduction is allowed in the following cases.

A. When laws and regulations provide otherwise for the deduction

Such as withholding at source of income tax or other taxes and deduction of the portions of employment insurance premiums and social insurance premiums to be borne by the insured

B. When a labor-management agreement has been concluded

Such as expenses for a company apartment or dormitory, payment for purchased goods, etc.

In this case, an Agreement on Partial Deduction from Wages must be concluded with a representative of the workers. An example of an agreement is as follows. For the method of selecting a representative of workers, see "Chapter 14, IV. Hearing of the Opinions from a Representative of Workers."

Agreement on Partial Deduction from Wages (example)

○○○○, CEO of ○○○○ Co., Ltd., and ○○○○, the representative of the workers, agreed as follows with regard to partial deduction from wages based on Article 24, paragraph (1) of the Labor Standards Act.

Article 1 The company deducts the following upon paying wages every month:
(1) Meal charges
(2) Membership fee for the inner assembly
(3) Monthly repayments for loans

Article 2 Monthly repayments for loans referred to in (3) of Article 1 may also be deducted from bonuses.

Article 3 Any portions of the expenses set forth in Article 1 that remain unpaid at the time of separation from employment may be deducted from retirement allowances.

Article 4 This agreement is effective for three years from the day of conclusion. However, even after the expiration of this effective term, this agreement remains effective unless either party announces the intention to annul it in writing prior to 90 days.

MM/DD/YY

CEO, ○○○○ Co., Ltd.: ○○○○○ Seal

Representative of workers: ○○○○○ Seal

The following does not constitute a violation of the principle of payment in full.

[i] Not paying wages for hours during which a worker did not provide labor due to absence from work, tardy arrival or early leaving, etc.

[ii] When having paid a part of the wages in advance, deduct that portion when paying wages

(4) Principle of payment at least once a month on a definite date

When an interval between payment dates is too large, this may cause uncertainties concerning workers' daily living, and when payment dates are not definite, workers may find it difficult to live in an organized manner. Therefore, wages are to be paid at least once a month on a definite date in order to secure workers' regular income (Article 24 of the Labor Standards Act).

A. Payments may be made twice a month, once a week or on a daily basis, if only the requirement of at least once a month is satisfied.

B. Payment date must be defined, such as on 25th every month, and wages must be paid on that date.

C. This principle does not apply to retirement allowances or other special wages, bonuses, and other wages equivalent thereto.

IV. Emergency Payments of Wages

In the event that a worker requests the payment of wages to cover emergency expenses for childbirth, illness, disaster, or any other emergency, the employer must pay accrued wages prior to the normal date of payment (Article 25 of the Labor Standards Act).

V. Allowance for Absence from Work

In the case where a worker was ready to work but was caused to be absent from work on a regular working day for reasons attributable to the company (the employer), the employer must pay an allowance equal to at least 60% of the worker's average wage (Article 26 of the Labor Standards Act).

"Reasons attributable to the employer" have a broader meaning than intentional or negligent reasons on the part of the employer and other reasons found equivalent in accordance with the principle of good faith, but do not include events of force majeure. Therefore, all cases: unless the employer can assert force majeure, are considered to be included.

VI. Guaranteed Payment at Piece Rates

With respect to workers employed under a piece work payment system or other subcontracting system, an employer must guarantee a fixed amount of wage proportionate to working hours in order to prevent declines in actual income due to reasons not attributable to workers (Article 27 of the Labor Standards Act).

VII. Premium Wages

< Cases where premium wages need to be paid and premium wage rates >

[i] Overtime work (overtime work not exceeding 45 hours per month and not exceeding 360 hours per year)	25% or more
[ii] Overtime work (overtime work exceeding 45 hours but not exceeding 60 hours per month, or exceeding 360 hours per year)	Make efforts to set a rate at not lower than 25%
[iii] Overtime work (overtime work exceeding 60 hours per month) (excluding the hours mentioned in [iv] below) *Applicable to SMEs from April 1, 2023	50% or more
[iv] Overtime work (overtime work exceeding 60 hours per month, for which substitute leave was granted as mentioned in Chapter 3)	25% or more
Work at night (22:00 - 5:00)	25% or more
Work on a statutory day off	35% or more

1. Cases where Premium Wages Need to be Paid

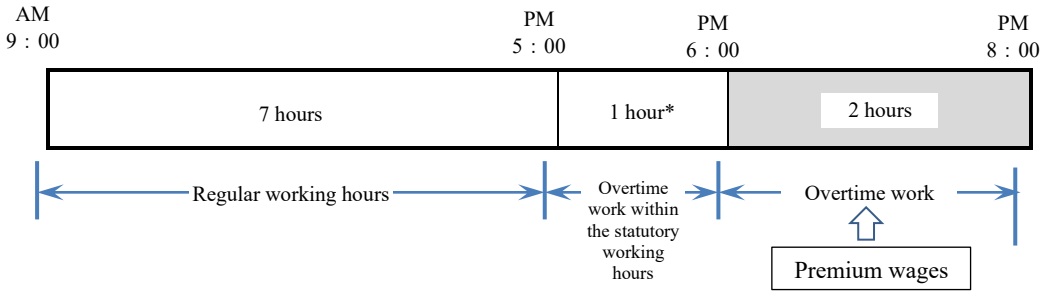
(1) Premium wages need to be paid in the following cases.

A. When having had a worker work overtime or on a statutory day off

B. When having had a worker work at night (from 22:00 to 5:00)

(2) Basic pattern of paying premium wages

Overtime work when regular working hours are shorter than the statutory working hours



As shown in this case, at a workplace where regular daily working hours are 7 hours, for one-hour overtime work (the portion marked with *) within the statutory daily working hours, it suffices to pay a normal hourly wage and the payment of premium wages under the Labor Standards Act is not required.

(If the payment of premium wages in such cases is prescribed in the rules of employment or a collective agreement, the payment is mandatory.)

(3) Labor-management agreement with special clauses and premium wage rates

A. By concluding a labor-management agreement with special clauses, an employer may have a worker work beyond the upper limits specified in Article 36, paragraph (4) of the Labor Standards Act (see "Chapter 7: I. Overtime Work and Work on Days Off") up to the limit agreed in the agreement.

However, it should be noted that a labor-management agreement with special clauses may be concluded only when there are temporary special circumstances, which means circumstances that require overtime work in excess of the upper limits due to such reasons as temporary and sudden increases in workloads during certain periods not exceeding half a year in total, and that an agreement should be reached on the following.

[i] A premium wage rate for overtime work exceeding the extension limits must be decided.

[ii] Efforts should be made to set that rate at not lower than 25%.

[iii] Efforts should be made to set the extendable hours as short as possible.

In the following example of an agreement, a premium wage rate is set at 30%.

B. When an employer has had a worker work overtime exceeding 60 hours per month, the employer must pay premium wages at a rate of 50% or more (applied to large companies; SMEs will also be subject to this obligation from April 1, 2023; see the following Figure).

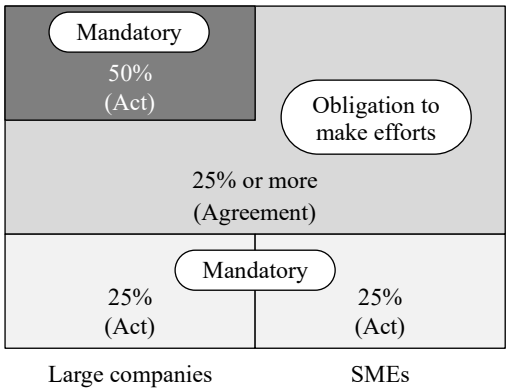
[i] When overtime work extended to late at night, premium wages at a rate of 50% or more need to be paid.

Overtime work (25% or more) + Work at night (25% or more) → 50% or more

[ii] When regular working hours contain late night hours

Premium wage at a rate of 25% or more must be paid only for the portion of the work conducted at night.

Application of premium wage rates



SMEs falling under either of the following

[i] Stated capital or contributes in total [ii] Number of regular employees

Retail	50 million yen or less	or	Retail	50 or less
Services			Services	100 or less
Wholesale	100 million yen or less		Wholesale	
Others	300 million yen or less		Others	300 or less

Judged not by the unit of workplace but by the unit of company (corporations or sole proprietors)

C. When overtime work is conducted at night

[i] When an employer has a worker work at night exceeding the extension limits (see "Chapter 7: I. Overtime Work and Work on Days Off"), the employer must make efforts to pay premium wages at a rate of 25% or more. If any special premium wage rate is specified for overtime work in excess of the extension limits (for example, 30%), the employer must pay premium wages at a rate of 55% or more.

Overtime work (30%) + Work at night (25% or more) → 55% or more

[ii] In the case of a large company, when overtime work exceeding 60 hours per month extended to late at night, premium wages at a rate of 75% or more need to be paid.

Overtime work (50%) + Work at night (25% or more) → 75% or more

D. When work on a day off exceeds eight hours

Work on a day off is to have a worker work on a statutory day off (one day per week or any of four days off per four-week period).

Therefore, even if a worker was made to work on one of the two days off under a five-day work system or on a national holiday, only if another one day is secured as a day off per week, the worker is not deemed to have worked on a day off under the Labor Standards Act, and the employer does not need to pay premium wages therefor (unless otherwise specified in the rules of employment or a collective agreement). However, as a result of working on that day, if the worker's weekly working hours exceeded the statutory weekly working hours (40 hours), the work during those excess hours fall under overtime work, for which the employer must pay premium wages (at a rate of 25%).

The idea of regular working hours does not apply to days off and the idea of overtime work does not apply either. Therefore, the employer only needs to pay premium wages at a rate of 35% or more to a worker who worked on his/her days off, irrespective of whether the daily working hours exceeded eight hours or not.

E. When work on a day off extends to night time

When work on a day off extended to night time, the employer must pay premium wages at a rate of 60% or more.

Work on a day off (35% or more) + Work at night (25% or more) → 60% or more

2. Payment of Premium Wages when Having Granted Substitute Leave

Companies, except for SMEs, still need to pay premium wages at a rate of 25% or more for overtime work exceeding 60 hours per month, even when granting substitute leave in lieu of premium wages.

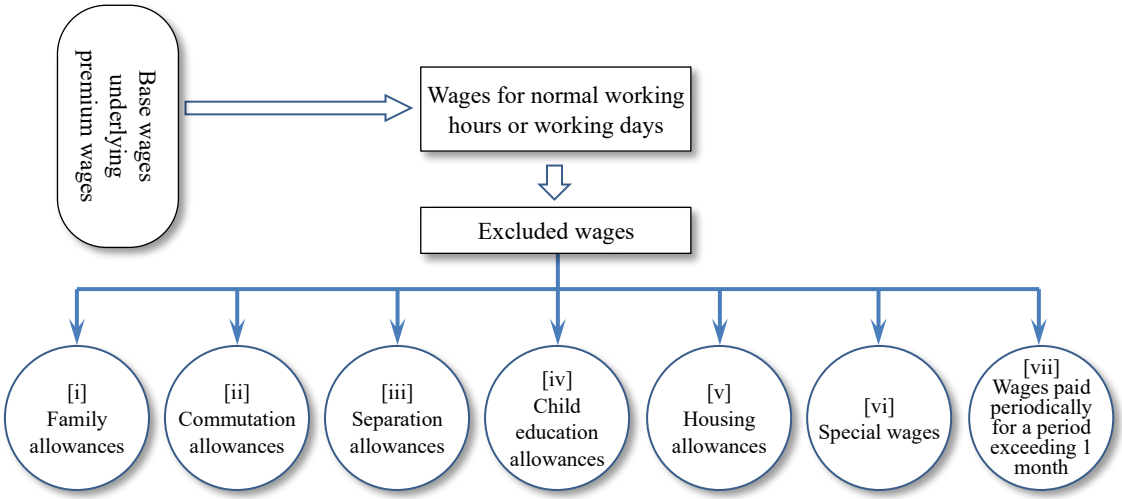
Number of hours exchanged with substitute leave × Premium wage rate (25% or more)

When a worker had intended to take substitute leave but could not, the employer must additionally pay premium wages (at a rate of 25% or more) for the working hours corresponding to that substitute leave on the date to pay wages for the period for which it became clear that the worker would not be able to take substitute leave.

When a worker does not intend to take substitute leave or when a worker's intention cannot be confirmed, the employer must pay premium wages at a rate of 50% or more on the date to pay normal wages.

A labor-management agreement may also include the provisions to the effect that if a worker takes substitute leave after receiving the payment of premium wages, the employer may make up for the excess of those wages.

3. Base Wages Underlying Premium Wages



Wages not falling under these seven types of wages must be all included as base wages for calculating premium wages (Article 37, paragraph (4) of the Labor Standards Act and Article 21 of the Regulation for Enforcement of the Labor Standards Act). Whether a certain wage falls under any of these seven types of wages to be excluded is to be judged based on its substance, irrespective of its name. It is not that wages paid under these names are excluded automatically.

Out of the family allowances, commutation allowances, and housing allowances, only those provided depending on the number of dependents, those provided for actual commutation expenses or depending on the distance, and those calculated based on actual housing expenses may be excluded, and allowances provided uniformly irrespective of the number of dependents, for example, do not fall under the category of family allowances here.

4. Concrete Calculation Methods of Premium Wages

Calculation methods of premium wages for respective payment patterns are indicated below.

(1) In the case of hourly wages

[i] Overtime work not exceeding 45 hours per month and not exceeding 360 hours per year

Hourly premium wages ＝ Hourly wages × 1.25 × Number of hours of overtime work

[ii] Overtime work exceeding 45 hours but not exceeding 60 hours per month, or exceeding 360 hours per year

Hourly premium wages ＝ Hourly wages × Premium wage rate specified in an agreement × Number of hours of overtime work

[iii] Overtime work exceeding 60 hours per month (excluding the hours mentioned in [iv] below)

Hourly premium wages ＝ Hourly wages × 1.50 × Number of hours of overtime work

[iv] Overtime work exceeding 60 hours per month, for which substitute leave was granted

Hourly premium wages ＝ Hourly wages × 1.25 × Number of hours of overtime work

[v] Work on a statutory day off

Hourly premium wages ＝ Hourly wages × 1.35

(2) In the case of daily wages

Regular working hours below mean working hours specified for the relevant workplace or worker, not the statutory working hours. Therefore, if regular working hours are 7 hours, for example, the daily wages need to be divided by 7. When regular working hours vary by day, the daily wages are to be divided by the average number of regular working hours during one week.

[i] Overtime work not exceeding 45 hours per month and not exceeding 360 hours per year

Hourly premium wages ＝ Daily wages / Regular daily working hours × 1.25 × Number of hours of overtime work

[ii] Overtime work exceeding 45 hours but not exceeding 60 hours per month, or exceeding 360 hours per year

Hourly premium wages ＝ Daily wages / Regular daily working hours × Premium wage rate specified in an agreement × Number of hours of overtime work

[iii] Overtime work exceeding 60 hours per month (excluding the hours mentioned in [iv] below)

Hourly premium wages ＝ Daily wages / Regular daily working hours × 1.50 × Number of hours of overtime work

[iv] Overtime work exceeding 60 hours per month, for which substitute leave was granted

Hourly premium wages ＝ Daily wages / Regular daily working hours × 1.25 × Number of hours of overtime work

[v] Work on a statutory day off

Hourly premium wages ＝ Daily wages / Regular daily working hours × 1.35

(3) In the case of monthly wages

Regular hourly working hours vary by month. Therefore, as the number of regular monthly working hours, the average number of regular monthly working hours during one year is to be used.

[i] Overtime work not exceeding 45 hours per month and not exceeding 360 hours per year

Hourly premium wages ＝ Monthly wages / Regular monthly working hours × 1.25 × Number of hours of overtime work

[ii] Overtime work exceeding 45 hours but not exceeding 60 hours per month, or exceeding 360 hours per year

Hourly premium wages ＝ Monthly wages / Regular monthly working hours × Premium wage rate specified in an agreement × Number of hours of overtime work

[iii] Overtime work exceeding 60 hours per month (excluding the hours mentioned in [iv] below)

Hourly premium wages ＝ Monthly wages / Regular monthly working hours × 1.50 × Number of hours of overtime work

[iv] Overtime work exceeding 60 hours per month, for which substitute leave was granted

Hourly premium wages ＝ Monthly wages / Regular monthly working hours × 1.25 × Number of hours of overtime work

[v] Work on a statutory day off

Hourly premium wages ＝ Monthly wages / Regular monthly working hours × 1.35

(4) In the case of piecework wages

[i] Overtime work not exceeding 45 hours per month and not exceeding 360 hours per year

Hourly premium wages ＝ Total piecework wages (contract wages) during the calculation period / Total working hours during the calculation period × 0.25 × Number of hours of overtime work

[ii] Overtime work exceeding 45 hours but not exceeding 60 hours per month, or exceeding 360 hours per year

Hourly premium wages ＝ Total piecework wages (contract wages) during the calculation period / Total working hours during the calculation period × Premium wage rate specified in an agreement × Number of hours of overtime work

[iii] Overtime work exceeding 60 hours per month (excluding the hours mentioned in [iv] below)

Hourly premium wages ＝ Total piecework wages (contract wages) during the calculation period / Total working hours during the calculation period × 0.50 × Number of hours of overtime work

[iv] Overtime work exceeding 60 hours per month, for which substitute leave was granted

Hourly premium wages ＝ Total piecework wages (contract wages) during the calculation period / Total working hours during the calculation period × 0.25 × Number of hours of overtime work

[v] Work on a statutory day off

Hourly premium wages ＝ Total piecework wages (contract wages) during the calculation period / Total working hours during the calculation period × 0.35

When wages are paid in combination of the multiple formulae shown in (1) to (4) above, such as when the basic wages are paid on a monthly basis with allowances on a daily basis, the sum of the amounts calculated respectively for the portions of the total wages is the amount of the hourly premium wages.

5. Annual Wage System

○ An employer who adopts an annual wage system must also pay premium wages to workers who have worked overtime or on a statutory holiday.

○ Under an annual wage system, if annual wages include premium wages for overtime work and work on days off, labor contracts must clarify that annual wages include such premium wages (e.g. for overtime work) so that wages for regular working hours can be clearly separated from such premium wages. Even if wages for regular working hours are not clearly separated from such premium wages, as long as the actual labor record of the previous year suggests the possibility of some overtime work and work on days off and both labor and management recognize that annual wages include premium wages for such work, annual wages can be considered to include premium wages for such work. However, the employer still must clearly indicate working conditions: including methods for determination and calculation of wages, to workers by delivering a document of working conditions to them.

VIII. Average Wage

Under the Labor Standards Act, an average wage is used for calculating the following.

[i] Allowance for dismissal without advance notice (Article 20)

[ii] Allowance for absence from work (Article 26)

[iii] Wages for annual paid leave (Article 39)

[iv] Accident compensation (Articles 76 to 82)

[v] Upper limit for a wage decrease as a sanction (Article 91)

< Calculation methods of an average wage >

Basically, an average wage is to be calculated using the following formula (Article 12 of the Labor Standards Act).

$$\text{Average wage} = \frac{\text{Total amount of wages for 3 months}}{\text{Total number of days in 3 months}}$$

(1) The calculation period for an average wage is, in principle, the last three months prior to the day on which the grounds for calculation occurred.

When a pay period ends on a fixed day, the calculation period is the 3-month period prior to the last fixed day.

When this calculation period includes any of the following periods, the number of days and wages during those periods are to be excluded for the calculation.

[i] A period during which a worker was absent from work due to medical treatment for an injury or disease resulting from an employment-related cause

[ii] A period of maternity leave before or after childbirth

[iii] A period during which a worker was absent from work for reasons attributable to the employer

[iv] A period of child care leave or family care leave

[v] A probationary period

(2) The total amount of wages principally includes all wages paid during the calculation period, but the following wages are excluded.

[i] Special wages

[ii] Wages paid periodically for a period exceeding three months

(3) In the case of daily wages, hourly wages and piecework wages, when an average wage calculated using the above formula is below the amount calculated using the following formula, the latter is considered to be an average wage.

$$\text{Average wage} = \frac{\text{Total amount of wages for the calculation period}}{\text{Number of working days in the calculation period}} \times \frac{60}{100}$$

With regard to cases where an average wage cannot be calculated by the methods mentioned above or a calculated average wage is extremely inappropriate, special calculation methods are presented in the Regulation for Enforcement of the Labor Standards Act and the Public Notice of the Minister of Health, Labour and Welfare.

IX. Minimum Wages

1. Minimum Wage System

There are regional minimum wages and special minimum wages (conventional minimum wages by industry), and hourly minimum wages are specified for each prefecture (Article 33 of the Minimum Wage Act).

Regional minimum wages apply to all workers and employers in respective prefectures, while special minimum wages only apply to certain businesses and jobs and are to be determined at levels not lower than regional minimum wages of respective prefectures (Article 16 of the Minimum Wage Act).

Regarding workers for whom the regional minimum wage and the special minimum wage both apply, the higher amount is applied.

For a dispatched worker, the regional minimum wage or special minimum wage of the prefecture wherein the client's workplace is located is applied (Article 13 of the Minimum Wage Act).

* See Reference Material II, Lists of Minimum Wages (p.245) for the regional minimum wages and special minimum wages (by industry).

Wages covered under the minimum wage system are limited to basic wages paid every month, specifically, the amount excluding the following wages from the wages actually paid (Article 4, paragraph (3) of the Minimum Wage Act).

[i] Wages other than those paid for each period not exceeding one month defined by Ministerial Order (Article 1 of the Regulation for Enforcement of the Minimum Wage Act)

[ii] Wages other than those normally paid for working hours or working days defined by Ministerial Order (Article 1 of the Regulation for Enforcement of the Minimum Wage Act)

[iii] Wages prescribed not to be included in the minimum wages (perfect attendance allowances, commutation allowances, family allowances)

There is also an exceptional system under which a reduction of the minimum wage may be allowed by obtaining permission from the director of the Prefectural Labour Bureau for workers who have significantly low capability for work due to mental or physical disability.

2. Mandatory Nature of Minimum Wages

An employer must pay wages of not less than the minimum wages to workers (Article 4 of the Minimum Wage Act).

A labor contract which stipulates wages less than the minimum wages is invalid with respect to such portions and the invalid portions are deemed to provide for wages equal to the rate of the minimum wages (Article 4, paragraph (2) of the Minimum Wage Act).

X. Retirement Benefit System

Retirement allowances are paid to a worker at the end of an employment relationship from the employer or the organization entrusted thereby, as part of a labor contract or in some cases under rules on retirement allowances predetermined as an appendix to a labor contract. Such payments are collectively called retirement allowances, in general.

Under the Labor Standards Act, it is up to employers whether or not to pay retirement allowances and other details thereof, as in the case of bonuses. However, if an employer has promised to pay retirement allowances, the employer needs to pay an agreed amount (Article 24 of the Labor Standards Act). When the payment of retirement allowances is decided at a workplace where 10 or more workers are regularly employed, that provision must be stated in the rules of employment and the rules of employment need to be submitted to the competent Labour Bureau.

The retirement benefit system has existed since early times as labor practices in Japan, under various names as retirement allowances, retirement benefits, retirement pensions, etc. It is said to have been originated from "*Norenwake*," an old custom of allowing long-serving workers to open branches by using the same trade name.

The retirement benefit system is roughly divided into a retirement lump-sum payment system and a retirement pension system.

The details of a retirement lump-sum payment system vary significantly by company. Many companies calculate the amount of payments by multiplying the base amount by the payment rate, but an increasing number of companies have come to adopt a system to calculate retirement lump-sum payments separately from normal wages, such as a point system or separate table system.

In general, companies establish multiple payment rates depending on such factors as the grounds for separation from employment and years of service.

Major grounds for separation from employment are personal circumstances, circumstances attributable to the company, mandatory retirement age, public injury, disease or death, private injury, disease or death, etc. and payment rates are generally higher for separation due to circumstances attributable to the company, mandatory retirement age, and public injury, disease or death. In the case of punitive dismissal, the amount paid is often reduced or retirement allowances are not at all paid.

When different payment rates and amounts are set depending on the grounds for separation from employment or when retirement allowances may be reduced or not paid on disciplinary grounds, such rules need to be clearly stated in the rules of employment or other documents.

Payment rates generally increase in accordance with the length of service, but there are roughly three patterns for the increase, namely, a uniform increase, progressive increase, and staged increase. Currently, payment rates for retirement allowances are mostly determined based on one of these three patterns.

A retirement pension system is a system under which a company or a certain organization pays a fixed amount as a pension to a worker or his/her surviving family after the end of the labor contract therewith, continuously on fixed dates every year, based on a contract concluded in advance. This is called a corporate pension plan and is also called a private pension plan in contrast to the employees' pension plan or other public pension plans.

Chapter 9: Protection of Women

I. Limitation on Women's Work

1. Limitation on Dangerous and Injurious Work

An employer is prohibited from having women engage in the following work (Article 64-3 of the Labor Standards Act and Article 2 of the Rules on Labor Standards for Women).

[i] Work involving the handling of heavy materials

Age	Weight (kg)	
	Intermittent work	Continuous work
Aged under 16	12	8
Aged 16 or over but under 18	25	15
Aged 18 or older	30	20

[ii] Work in places in which certain chemical substances injurious to pregnancy, childbirth, nursing and the like are generated

2. Limitation on Belowground Work

An employer is prohibited from having women engage in work of so-called pit workers (Article 64-2 of the Labor Standards Act and Article 1 of the Rules on Labor Standards for Women). Specifically, the following belowground work is prohibited for women.

[i] Manual work of excavating and mining of minerals (earth and stones, rocks, and minerals)

[ii] Powered work of excavating and mining of minerals (earth and stones, rocks, and minerals)

[iii] Blasting work of excavating and mining of minerals (earth and stones, rocks, and minerals)

[iv] Work incidental to [i] to [iii] above, such as transporting slag and materials, and concrete placement for lining (excluding technological management or supervision work such as that of a site supervisor or site agent)

Additionally, an employer is prohibited from assigning pregnant women or women within one year after childbirth who notify the employer of their intention not to work belowground with any type of belowground work.

II. Protection of Expectant and Nursing Mothers, etc. (Maternal Protection)

1. Maternity Leave Before Childbirth

If a female worker who is expected to give birth within six weeks (or 14 weeks in the case of multiple pregnancy) requests leave, an employer is not allowed to make her work (Article 65, paragraph (1) of the Labor Standards Act). The delivery day is included in maternity leave before childbirth.

2. Maternity Leave After Childbirth

An employer is not allowed to make a female worker work within eight weeks after childbirth (Article 65, paragraph (2) of the Labor Standards Act). Childbirth refers to a delivery of a baby after at least four months of pregnancy and includes a miscarriage, a stillbirth, and an artificial abortion.

Maternity leave before childbirth is given based on a request from a mother, but during a period of maternity leave after childbirth, an employer is not allowed to have a female worker work irrespective of whether a request is made or not.

However, if a female worker who gave birth not less than six weeks ago makes a request, an employer is allowed to assign her with work permitted by a doctor.

3. Wages during Maternity Leave Before and After Childbirth

It is not necessarily required to specify maternity leave before and after childbirth as paid leave, and concrete conditions are to be specified in the rules of employment, etc.

4. Limitation on Work for Expectant and Nursing Mothers, etc.

With regard to expectant and nursing mothers (pregnant women and women within one year after childbirth), special measures for protection, such as limitation on dangerous and injurious work, are required from the medical perspective in order to protect the health of mothers and fetuses (Article 64-3 of the Labor Standards Act).

Types of work prohibited for pregnant women and women within one year after childbirth who notify the employer of their intention not to engage in such works are as follows. Among these kinds of work, work injurious to female functions related to pregnancy and childbirth is also prohibited for female workers other than expectant or nursing mothers (Article 2 and Article 3 of the Rules on Labor Standards for Women).

< Limitation on work for expectant and nursing mothers, etc. >

(*)×…Prohibited; △…Prohibited, upon workers' request; ○…Not prohibited

Article 2 of the Rules on Labor Standards for Women		Before childbirth	After childbirth	Others
(i)	Handling heavy materials	×	×	×
(ii)	Handling boilers (excluding small boilers)	×	△	○
(iii)	Welding boilers	×	△	○
(iv)	Operating a crane or derrick with a lifting capacity of 5 tons or more or a cargo lifting appliance having a limited capacity of 5 tons or more	×	△	○
(v)	Cleaning, feeding, checking or repairing an engine or a power transfer device from an engine to a middle shaft at work, or changing belts therein	×	△	○
(vi)	Slinging operation for a crane, derrick, or cargo lifting appliance (excluding assistance in a team work)	×	△	○
(vii)	Operating power-driven civil engineering machinery or ship freight handling machinery	×	△	○
(viii)	Supplying lumber to a circular saw whose diameter is 25cm or larger (excluding such circular saw for horizontal cutting and that with an automatic feeder) or to a band mill having a band wheel whose diameter is 75cm or larger) (excluding such band mill with an automatic feeder)	×	△	○

(ix)	Exchanging, connecting or releasing track vehicles within a switching yard	×	△	○
(x)	Metal processing using a press machine or forging machine powered with steam or compressed air	×	△	○
(xi)	Processing steel plate with a thickness of 8mm or more using a power-driven press machine or shears	×	△	○
(xii)	Supplying materials to a crushing machine or smasher of rocks or minerals	×	△	○
(xiii)	Working in a place with a risk of land slide or in a hole with a depth of 5m or more	×	○	○
(xiv)	Working at a height of 5m or more with a risk of injury due to fall	×	○	○
(xv)	Assembling, demolishing or changing scaffolds (excluding assistance on the ground or the floor)	×	△	○
(xvi)	Cutting a tree whose breast-height diameter is 35cm or larger	×	△	○
(xvii)	Carrying out lumber using a skyline logging cable crane, logging cableway, etc.	×	△	○
(xviii)	Working in a place where certain chemical substances injurious to pregnancy, childbirth, nursing, etc. are generated	×	×	×
(xix)	Handling a large amount of materials of high temperatures	×	△	○
(xx)	Working in an extremely hot place	×	△	○
(xxi)	Handling a large amount of materials of low temperatures	×	△	○
(xxii)	Working in an extremely cold place	×	△	○
(xxiii)	Working under an extraordinary atmospheric pressure	×	△	○
(xxiv)	Using machinery or equipment causing strong vibrations to the body, such as a rock drill and tacker	×	×	○

5. Transfer to Light Activities

In the event that a pregnant woman has so requested, an employer must transfer her to other light activities (Article 65, paragraph (3) of the Labor Standards Act).

What falls under light activities should be judged depending on concrete circumstances, but in principle, this provision means that an employer should assign another work as requested by the relevant worker.

However, if there are no applicable light activities, an employer does not have to go so far as to newly create light activities to assign.

6. Limitation on Variable Working Hours System and Overtime Work

(1) Limitation on application of a variable working hours system

Even when a one-month variable working hours system or one-year variable working hours system is adopted, if an expectant or nursing mother has made a request, an employer is not allowed to have her work in excess of eight hours on a specific day or 40 hours during a specific week, and must observe the statutory daily and weekly working hours (Article 66, paragraph (1) of the Labor Standards Act).

(2) Limitation on overtime work, work on days off and work at night

When an expectant or nursing mother has so requested, an employer must not have her work overtime nor work on days off or at night, including in cases of emergencies (Article 66, paragraphs (2) and (3) of the Labor Standards Act).

7. Time for Child Care

If a female worker raising an infant under the age of one year makes a request, an employer is required to give the female worker at least 30 minutes as time for child care twice a day, in addition to a rest period. The employer must not have the relevant female worker work during that time for child care (Article 67 of the Labor Standards Act).

Unlike rest periods, which must be provided in the middle of the working hours, time for child care may be requested at any time, such as at the beginning and the end of the working hours, for example.

Whether wages should be paid for time for child care is to be specified in the rules of employment, etc.

8. Measures Concerning Health Management During Pregnancy and After Childbirth

The Equal Employment Opportunity Act obliges employers to take measures for the management of maternal health.

(1) Employers must secure the necessary time off so that female workers may receive the health guidance and medical examinations prescribed in the Maternal and Child Health Act (Article 12 of the Equal Employment Opportunity Act).

* Concrete details of the measures (Article 2-4 of the Regulation for Enforcement of the Equal Employment Opportunity Act)

A. Before childbirth (during pregnancy)

Up to the 23rd week ……Once every four weeks

From the 24th to the 35th week ……Once every two weeks

From the 36th week to childbirth……Once a week

When otherwise directed by a doctor or a birthing assistant (hereinafter referred to as "a doctor, etc."), an employer needs to secure necessary time based on such direction.

B. After childbirth (within one year)

When a doctor, etc. recommends health guidance, an employer needs to secure necessary time based on such recommendation.

The details, such as how to grant time off for medical examinations (application methods), the unit of time-off (on a half-day basis or an hourly basis, etc.), and whether wages should be paid for that time, are to be specified in the rules of employment, etc., but should preferably be decided through talks between labor and management.

(2) Employers must take necessary measures, such as change of working hours and reduction of work, in order to enable female workers to comply with the directions they receive based on the health guidance and medical examinations (Article 13, paragraph (1) of the Equal Employment Opportunity Act).

* Specifically, the outline is indicated as summarized below in the Guidelines (Public Notice of the Labor Ministry No.105 of 1997).

A. Measures for the management of maternal health to be taken by employers

[i] Measures to ease commutation during pregnancy: Staggered commuting, shortening of working hours, etc.

[ii] Measures concerning rest periods during pregnancy: Extension of a rest period, increase of the number of breaks, etc.

[iii] Measures concerning health conditions during pregnancy and after childbirth: Limitation on work, absence from work, etc.

In the absence of direct directions from a doctor, etc. or when measures are not clear, an employer needs to ask for advice from a doctor, etc. or otherwise take appropriate actions.

B. An employer should preferably use a communication card on maternity health guidance in order to properly communicate guidance of a doctor, etc. to the relevant worker and clarify measures that the employer should take. An employer should also be careful about the protection of individuals' privacy.

Regarding wages for the hours during which a worker did not work due to such measures as shortening of working hours or absence from work, the details (whether wages should be paid or not, etc.) are to be specified in the rules of employment, etc., but should preferably be decided through talks between labor and management.

9. Prohibition of Dismissal or Other Disadvantageous Treatment against Expectant and Nursing Mothers

(1) Restriction on dismissal by reason of leave before and after childbirth

An employer must not dismiss a female worker during maternity leave for six weeks before childbirth (or for 14 weeks in the case of multiple pregnancy) and during maternity leave for eight weeks after childbirth, nor within 30 days thereafter (Article 19 of the Labor Standards Act; however, this does not apply when the continuance of the business has become impossible due to natural disaster or other unavoidable reasons and the employer obtains the approval of the Director-General of the competent Labour Standards Inspection Office).

(2) Prohibition of disadvantageous treatment by reason of marriage, pregnancy and childbirth

A. The following disadvantageous treatment against female workers are prohibited (Article 9, paragraphs (1) and (2) of the Equal Employment Opportunity Act)

[i] Stipulate marriage, pregnancy or childbirth as a reason for retirement of female workers

[ii] Dismiss female workers for marriage

B. Prohibition of disadvantageous treatment against pregnant female workers and female workers who have exercised their rights concerning pregnancy

An employer may not dismiss or otherwise treat workers disadvantageously on the following grounds (Article 9, paragraph (3) of the Equal Employment Opportunity Act and Article 2-2 of the Regulation for Enforcement of the Equal Employment Opportunity Act)

[i] A worker has become pregnant or given birth.

[ii] A pregnant worker or a female worker within one year after childbirth has requested measures concerning health guidance and medical examinations (measures for the management of maternal health) or has received such measures.

[iii] A worker could not or did not engage in belowground work or dangerous and injurious work, or has notified her intention not to engage in belowground work or dangerous and injurious work and did not engage in such work.

[iv] A worker requested or took maternity leave before childbirth, or could not work during a period of maternity leave after childbirth or took maternity leave after childbirth.

[v] A pregnant worker requested transfer to other light activities or was transferred to light activities.

[vi] In a workplace where a variable working hours system is adopted, a worker requested that she would not engage in work in excess of the statutory daily or weekly working hours or that she would not work overtime or on days off (including in cases of emergencies), or at night, or did not engage in such work.

[vii] A worker requested or took time for child care.

[viii] A worker is or was unable to provide labor or her labor efficiency declined due to symptoms caused by pregnancy or childbirth.

Representative disadvantageous treatment includes the following.

[i] Dismissal

[ii] Not renewing a contract for a fixed-term worker

[iii] Reducing the upper limit of contract renewals that was clearly defined in advance

[iv] Forcing change in the content of a labor contract to urge resignation or to change a status from a regular worker to a non-regular worker, such as a part-timer

[v] Demotion

[vi] Worsening a working environment

[vii] Ordering to stand by at home disadvantageously

[viii] Reducing wages or calculating bonuses, etc. in a disadvantageous manner

[ix] Making disadvantageous evaluations in considering promotion

[x] Changing assignments disadvantageously

[xi] A client refusing to offer jobs to a dispatched worker

C. Dismissal of female workers who are pregnant or in the first year after childbirth is to be void (this does not apply in the case where the employer proves that dismissal is not by reason of pregnancy or childbirth, etc.) (Article 9, paragraph (4) of the Equal Employment Opportunity Act).

III. Measures for Women for Whom Work during the Menstrual Period would be Difficult

If a female worker for whom work during the menstrual period would be especially difficult requests leave, the employer may not make the female worker work during the menstrual period (Article 68 of the Labor Standards Act).

Extreme difficulty in work during a menstrual period means a situation where a strong pain in the lower stomach, the waist, the head, etc. due to menstruation makes it especially difficult for the relevant woman to work.

Therefore, this system is not intended to approve requests for leave only on the grounds of a menstrual period.

However, requesting a proof of extreme difficulty too strictly is against the purport of this system, and an employer should not request a worker to submit a doctor's certificate or other proof but should only demand information sufficient to draw an inference, such as the worker's explanations and her coworkers' statements.

Whether wages should be paid for a day on which a worker takes menstrual leave is to be specified in the rules of employment, etc.

Chapter 10: Child Care and Family Care Leave System

I. Child Care and Family Care Leave System

1. Child Care Leave System

A worker (excluding a day laborer; the same applies hereinafter) can take child care leave for his/her child until the child reaches one year of age upon applying to the employer on two occasions by dividing the leave. (If his/her spouse also takes child care leave for the child, the worker can take child care leave for the child for up to one year until the child reaches one year and two months of age. In certain cases where continued leave is found to be necessary even after the child becomes one year old, until the child becomes one year and six months old, and in certain cases where further leave is found to be necessary even after the child becomes one year and six months old, until the child becomes two years old.) An employer may not reject a request for leave from a worker satisfying the requirements (Article 5 and Article 6, paragraph (1) of the Child Care and Family Care Leave Act)

* Child care leave may also be taken by fixed-term workers satisfying the following:

It is not evident that the term of a labor contract (if a contract is renewed, the contract after renewal) expires by the day on which the relevant child becomes one year and six months old.

Parental leave (fathers' child care leave) (Articles 9-2, 9-3, and 9-5 of the Child Care and Family Care Leave Act)

・Separately from child care leave, a male worker can take parental leave for up to four weeks within eight weeks after childbirth, on two occasions by dividing the leave.

* Parental care leave may also be taken by fixed-term workers satisfying the following:

It is not evident that the term of a labor contract expires (if a contract is renewed, the term of the renewed contract expires) by the day on which 6 months elapse from the day following the day on which eight weeks elapse from the day of childbirth or the due date, whichever is the later.

・Limited to cases where a labor-management agreement is concluded, a worker may work within the scope agreed thereby during the period of the parental leave.

* Upper limit for days available for work

・Up to the half of the regular working days and regular working hours during the parental leave

・When working on the scheduled first or last day of the leave, not more than the regular working hours for that day

The scope of workers, number of times, periods, etc. are outlined in the table below ("9. Scope of Workers, etc.").

An employer must specify the child care and family care leave system in advance in the rules of employment or other documents and make it known to workers. An employer, who came to know that a worker or a worker's spouse has become pregnant or given birth or that a worker is taking care of his/her family

member covered under the system, is required to make efforts to individually inform the relevant worker of the related systems.

An employer must endeavor to specify the following matters in advance and take measures to make them known to workers (Article 21 of the Child Care and Family Care Leave Act).

[i] Particulars related to treatment for a worker during a period of child care leave and family care leave

Particulars concerning wages and other financial benefits, and training and education, etc. during the leave are included.

[ii] Particulars related to working conditions after the child care leave and family care leave, such as wages and assignments

Other working conditions include promotion and annual paid leave, etc. When calculating attendance rates for deciding the number of days granted as annual paid leave, a worker is deemed to have worked during a period of child care leave and family care leave (Article 39, paragraph (10) of the Labor Standards Act).

[iii] Other particulars

When to resume provision of labor when child care leave or family care leave ceases to be necessary, and the method to pay social insurance premiums to the employer during a period of leave are to be decided (Article 70 of the Regulation for Enforcement of the Child Care and Family Care Leave Act).

When receiving a notification concerning the pregnancy, childbirth, etc. of a worker or a worker's spouse, an employer must provide the worker with sufficient information on matters concerning the child care leave system, etc. and take measures such as an interview to confirm whether he/she intends to take child care leave or parental leave, individually (Article 21, paragraph (1) of the Child Care and Family Care Leave Act).

Additionally, in order to ensure workers' smooth applications for child care leave and parental leave, an employer should take at least one of the measures such as the provision of training on child care leave and parental leave and the development of a consultation system (Article 22 of the Child Care and Family Care Leave Act).

On April 1, 2023 onward, employers who regularly employ over 1,000 workers must disclose the rate of their male workers' acquisition of child care leave, etc. once a year (Article 22-2 of the Child Care and Family Care Leave Act).

2. Family Care Leave System

A worker (excluding a day laborer; the same applies hereinafter) who is taking care of his/her family member in need of nursing care covered under the system can take family care leave upon applying to the employer, for three times up to 93 days in total for one family member (Article 11 of the Child Care and Family Care Leave Act).

The scope of workers, number of times, periods, etc. are outlined in the table below ("9. Scope of Workers, etc.").

* Family care leave may also be taken by fixed-term workers satisfying the following:

It is not evident that the term of a labor contract (if a contract is renewed, the contract after renewal) expires by the day on which six months elapse from the 93rd day from the day of planning to take the leave.

3. Prohibition of Disadvantageous Treatment

An employer is prohibited from dismissing or otherwise treating workers disadvantageously on the grounds of having applied for or used [i] child care leave, [ii] parental leave, [iii] family care leave, [iv] sick/injured child care leave, [v] nursing leave, [vi] the limitation on work in excess of regular working hours, [vii] measures to shorten regular working hours or the like, [viii] the limitation on overtime work, and [ix] the limitation on night work, or [x] having filed a notification concerning their own or their spouses' pregnancy, childbirth, etc., or [xi] having failed to report the days on which they are available for work, etc. during parental leave or to give consent thereto (Articles 10, 16, 16-4, 16-7, 16-10, 18-2, 20-2, Article 21, paragraph (2), and Article 23-2 of the Child Care and Family Care Leave Act).

When a causal connection is found between disadvantageous treatment and a worker's act of filing an application or using any of these systems, the relevant disadvantageous treatment is prohibited.

Representative disadvantageous treatment includes the following.

[i] Dismissal

[ii] Not renewing a contract for a fixed-term worker

[iii] Reducing the upper limit of contract renewals that was clearly defined in advance

[iv] Forced change in the content of a labor contract to urge resignation or to change a status from a regular worker to a non-regular worker

[v] Ordering to stand by at home

[vi] Applying the limitation on work in excess of regular working hours, limitation on overtime work, limitation on night work, or measures to shorten regular working hours or the like beyond the period applied by a worker against his/her will

[vii] Demotion

[viii] Reducing wages or calculating bonuses, etc. in a disadvantageous manner

[ix] Making disadvantageous evaluations in considering promotion

[x] Changing assignments disadvantageously

[xi] Worsening a working environment

II. Protective Measures for Workers with Family Responsibilities

1. Sick/Injured Child Care Leave System

A worker can take sick/injured child care leave for up to five days a year if he/she has one pre-school child and for up to 10 days a year if he/she has two or more pre-school children, upon applying to the employer. Sick/injured child care leave may be taken for the purpose of taking care of a sick or injured child, or having a child get a vaccination or a medical check-up on a day or on an hourly basis. An employer may not reject a

request for leave from a worker satisfying the requirements (Articles 16-2 and 16-3 of the Child Care and Family Care Leave Act).

2. Nursing Leave System

A worker who takes care of his/her family member in need of nursing care covered under the system can take up to five days off for nursing leave a year if he/she has one such family member and up to 10 days off for nursing leave a year if he/she has two or more such family members, upon applying to the employer. Nursing leave may be taken on a day or on an hourly basis. An employer may not reject a request for leave from a worker satisfying the requirements (Articles 16-5 and 16-6 of the Child Care and Family Care Leave Act).

3. Measures to Shorten Working Hours, etc.

For a worker (excluding such worker whose regular working hours are six hours or shorter per day, a day laborer, and a worker excluded from the application of the measures in a labor-management agreement) who is raising a child under three years of age and does not take child care leave, an employer must take measures to shorten regular working hours. Regarding a worker to whom it is difficult to apply a shorter working hours system due to the nature of his/her duties, an employer must take measures equivalent to a child care leave system, or measures to change the starting time (adopt a flextime system, move up or down the starting or finishing time, establish and run a child care facility, or extend any other equivalent preferential measures).

For a worker who takes care of a subject family member regularly in need of nursing care and does not take family care leave, an employer must take some of the following measures: shorten regular working hours, adopt a flextime system, move up or down the starting or finishing time, provide financial assistance for nursing expenses or other equivalent measures, at least twice for three or more consecutive years (Article 23 of the Child Care and Family Care Leave Act and Article 74 of the Regulation for Enforcement of the Child Care and Family Care Leave Act).

4. Limitation on Work in Excess of Regular Working Hours

When a worker (excluding a day laborer and a worker excluded from the application of the measures in a labor-management agreement) who is raising a child under the age of three years makes a request, an employer must not make the worker work in excess of the regular working hours, except for cases where said request would impede normal business operations. This request may be filed for a period exceeding one month but not exceeding one year. Requests may be filed any number of times (Article 16-8 of the Child Care and Family Care Leave Act).

When a worker who takes care of a subject family member in need of nursing care makes a request, an employer must not make the worker work in excess of the regular working hours, except for cases where said request would impede normal business operations. This request may be filed for a period exceeding one month but not exceeding one year, while clarifying the days of the start and the end of application of the measures, by one month prior to the scheduled day of starting the application. Requests may be filed any number of times (Article 16-9 of the Child Care and Family Care Leave Act).

5. Limitation on Overtime Work

When a worker (excluding a day laborer, a worker whose regular weekly working days is two days or less, and a worker who has been employed by the same employer continuously for less than one year) who is raising a pre-school child or takes care of a subject family member regularly in need of nursing care makes a request, an employer must not make the worker work overtime in excess of 24 hours per month and 150 hours per year, except for cases where said request would impede normal business operations. This request may be filed for a period exceeding one month but not exceeding one year, and requests may be filed any number of times (Articles 17 and 18 of the Child Care and Family Care Leave Act).

6. Limitation on Work at Night

When a worker who is raising a pre-school child or takes care of a subject family member regularly in need of nursing care makes a request, an employer must not make the worker work at night, except for cases where said request would impede normal business operations. This request may be filed for a period exceeding one month but not exceeding six months, and requests may be filed any number of times (Articles 19 and 20 of the Child Care and Family Care Leave Act).

7. Consideration Concerning Assignments

When making a change to assignments of an employed worker, an employer must give consideration for the worker's situation with regard to child care or family care (Article 26 of the Child Care and Family Care Leave Act).

Concretely, the employer is to ascertain the worker's situation of raising his/her child or taking care of his/her family member and take into account the worker's own will. When the change results in a change of the worker's workplace, the employer is to also check whether the worker has any alternative means for child care or family care.

8. Scope of Workers, etc.

The scope of workers, number of times, periods, etc. for each leave system are as follows.

		Re. child care		Re. family care
Leave System		Child care leave	Parental leave	Family care leave
	Definition	○ Leave for a worker for the purpose of raising his/her child aged younger than 1 year	○ Leave for a male worker who has not taken leave after childbirth for the purpose of raising his child within 8 weeks after birth, in principle	○ Leave for a worker for the purpose of taking care of his/her family member in need of nursing care (in need of regular nursing care for 2 weeks or longer due to an injury, disease or mental or physical disorder)
	Scope of workers covered	○ A worker (excluding a day laborer) ○ A fixed-term worker who satisfies the following at the time of application ・It is not evident that the term of the labor contract expires and the contract will not be renewed by the day on which the child becomes 1 year and 6 months old (or 2 years old in the case of a leave up until the child becomes 2 years old). ○ A worker who can be excluded under a labor-management agreement ・ A worker employed for less than 1 year ・ A worker whose employment relationship ends within 1 year (or within 6 months in the case of a leave after the child becomes 1 year old) ・ A worker whose regular working days are 2 days or less per week	○ A male worker who has not taken leave after childbirth (excluding a day laborer) ○ A fixed-term worker who satisfies the following at the time of application ・It is not evident that the term of the labor contract expires and the contract will not be renewed by the day on which 6 months elapse from the day following the day on which eight weeks elapse from the day of childbirth or the due date, whichever is the later. ○ A worker who can be excluded under a labor-management agreement ・ A worker employed for less than 1 year ・ A worker whose employment relationship ends within 8 weeks ・ A worker whose regular working days are 2 days or less per week	○ A worker (excluding a day laborer) ○ A fixed-term worker who satisfies the following at the time of application ・It is not evident that the term of the labor contract expires and the contract will not be renewed by the day on which 6 months elapse from the 93rd day from the day of planning to take the leave. ○ A worker who can be excluded under a labor-management agreement ・ A worker employed for less than 1 year ・ A worker whose employment relationship ends within 93 days ・ A worker whose regular working days are 2 days or less per week
	Scope of family members covered	○ Worker's children	○ Worker's children	○ Worker's spouse (including de facto spouse, the same applies hereinafter) Worker's parents, children, and spouse's parents Worker's grandparents, siblings, and grandchildren
	Number of times	○ Twice per child, in principle ○ Child care leave may be taken again in the following cases: (i) When child care leave ended as a result of the commencement of new maternity leave, parental leave, child care leave, or family care leave and the child or the family member relating to the latter leave died	○ Twice per child (When taking leave on two occasions by dividing it, an application is to be filed collectively on one occasion)	○ 3 times per 1 subject family member

	(Cont.) Number of times	(ii) When the spouse died or when it became difficult for the spouse to take care of the child due to an injury, disease, or disorder (iii) When the spouse ceased to live with the child as a result of divorce, etc. (iv) When the child is in need of care for 2 weeks or longer due to an injury, disease or disorder (v) When the worker cannot find a place for the child at a day care center ○ Child care leave after the child becomes 1 year old may be taken separately from child care leave up to the age of 1 year. ○ Regarding leave after the child becomes 1 year old, only in the case referred to in (i) above, child care leave up until the child becomes 1 year and 6 months old or 2 years old can be taken again.		
	Period	○ A consecutive period until the child becomes 1 year old, in principle ○ If the spouse takes child care leave, a worker may take leave up to 1 year totaling the day of childbirth, a period of maternity leave before and after childbirth, child care leave, and parental leave, until the child becomes 1 year and 2 months old.	○ Up to 4 weeks (28 days) in total within 8 weeks after childbirth, in principle	○ Up to 93 days in total per 1 subject family member
	Period (when extended)	○ Child care leave up until the child becomes 1 year and 6 months old can be taken only when the following requirements (when falling under (ii) C. below, when only requirements in (ii)) are satisfied. (i) Either of the parents is on child care leave as of the day on which the child becomes 1 year old (when the parents are on child care leave for the child over 1 year old using the Mom & Dad Child Care Leave Plus System, as of the scheduled last day of the leave). (ii) There is any of the following circumstances: A. When the worker cannot find a place for the child at a day care center B. When the spouse (another parent), who had been expected to take care of the child after the child becomes 1 year old, died or became unable to take care of the child due to an injury or disease, etc. C. When child care leave ended as a result of the commencement of new		

		maternity leave, parental leave, child care leave, or family care leave and the child or the family member relating to the latter leave died (iii) The worker has not taken child care leave up until the child becomes 1 year and 6 months old. * Child care leave may be extended from until the age of 1 year and 6 months to until the age of 2 years under the same conditions.		

		Re. child care		Re. family care
Leave System		Child care leave	Parental leave	Family care leave
	Procedure	○ File an application in writing to the employer ・ The employer may request the submission of certifications. ・ The employer notifies the worker of the scheduled first day and last day of the leave in writing. ○ The period for filing an application (the period during which the employer may delay the first day of the leave) is by 1 month prior to the first day of the leave (however, in such cases as where childbirth was earlier than the due date, by 1 week prior to the first day of the leave). An application for leave after the child becomes 1 year old must be filed by 2 weeks prior to the first day of the leave (on or after the day following the day on which the child becomes 1 year old (in the case of child care leave up until the child becomes 2 years old, following the day on which the child becomes 1 year and 6 months old), by 1 month prior to the first day of the leave) ○ In such cases as where childbirth was earlier than the due date, the scheduled first day of the leave may be moved up only once for each leave. ○ By filing an application by 1 month earlier, the scheduled last day of the leave may be moved down within the period until the child becomes 1 year old, only once for each leave. While on child care leave after the child becomes 1 year old, by filing an application by 2 weeks earlier, the scheduled last day of the leave may be moved down within the period until the child becomes 1 year and 6 months old (or 2 years old), only once. ○ An application for leave may be withdrawn by notification by the day preceding the scheduled first day of the leave. ○ When an application for child care leave up until the child becomes 1 year old is withdrawn once, it is deemed that leave was taken once. Each application for child care leave for the child over 1 year old may be withdrawn one time only. When having withdrawn an application, another	○ File an application in writing to the employer ・ The employer may request the submission of certifications. ・ The employer notifies the worker of the scheduled first day and last day of the leave in writing. ○ The period for filing an application (the period during which the employer may delay the first day of the leave) is by 2 weeks prior to the first day of the leave (when a labor-management agreement is concluded, by the deadline stipulated in the agreement during a period over 2 weeks and up to 1 month) (however, in such cases as where childbirth was earlier than the due date, by 1 week prior to the first day of the leave). ○ In such cases as where childbirth was earlier than the due date, the scheduled first day of the leave may be moved up only once for each leave. ○ By filing an application by 2 weeks earlier, the scheduled last day of the leave may be moved down within the period of 4 weeks (28 days) in total within 8 weeks after childbirth, only once for each leave. ○ An application for leave may be withdrawn by notification by the day preceding the scheduled first day of the leave. When an application is withdrawn once, it is deemed that leave was taken once. When having withdrawn applications twice, another application may not be filed.	○ File an application in writing to the employer ・The employer may request the submission of certifications. ・The employer notifies the worker of the scheduled first day and last day of the leave in writing. ○ The period for filing an application (the period during which the employer may delay the first day of the leave) is by 2 weeks prior to the first day of the leave. ○ By filing an application by 2 weeks earlier, the scheduled last day of the leave may be moved down within the period of 93 days, only once for each application. ○ An application for leave may be withdrawn by notification by the day preceding the scheduled first day of the leave. ○When an application is withdrawn twice successively, the employer may refuse applications filed thereafter.

		application may not be filed, in principle.		
	Work during the leave		○ Limited to cases where a labor-management agreement stipulates workers whom the employer may get to engage in work during the leave, a worker may engage in work within the range agreed thereby. ○ A worker who wants to engage in work during the leave is to report his days available for work, etc. in writing. Then, the employer presents dates on which the employer will get the worker to engage in work within the range of reported days available for work, and concludes a labor-management agreement with the worker by the day preceding the first day of the leave. ○ There is the upper limit for days available for work, etc. (up to the half of the regular working days and regular working hours during the leave, etc.) ○ An application for leave may be withdrawn by notification by the day preceding the scheduled first day of the leave. On or after first day of the leave, withdrawal is permitted only when special circumstances exist.	

		Re. child care	Re. family care
Sick/injured child care leave	Details of the system	○ A worker can take sick/injured child care leave for up to 5 days a year if he/she has one pre-school child and for up to 10 days a year if e/she has 2 or more pre-school children, for the purpose of taking care of a sick or injured child, or having a child get a vaccination or a medical check-up. ○ Sick/injured child care leave may be taken on an hourly basis.	
	Scope of workers covered	○ A worker (excluding a day laborer) who is raising a pre-school child ○ A worker who can be excluded under a labor-management agreement ・A worker who has served less than 6 months ・A worker whose regular working days are 2 days or less per week	
Nursing leave	Details of the system	○ A worker who takes care of his/her family member in need of nursing care covered under the system can take up to 5 days off for nursing leave a year if he/she has 1 such family member and up to 10 days off for nursing leave a year if he/she has 2 or more such family members. ○ Nursing leave may be taken on an hourly basis.	
	Scope of workers covered	○ A worker (excluding a day laborer) who takes care of his/her family member in need of nursing care covered under the system ○ A worker who can be excluded under a labor-management agreement ・A worker who has served less than 6 months ・A worker whose regular working days are 2 days or less per week	
System to limit work in excess of regular working hours	Details of the system	○ When a worker who is raising a child under the age of 3 years makes a request, an employer must not make the worker work in excess of the regular working hours.	○ When a worker who takes care of a subject family member in need of nursing care makes a request, an employer must not make the worker work in excess of the regular working hours.
	Scope of workers covered	○ A worker (excluding a day laborer) who is raising a child under the age of 3 years ○ A worker who can be excluded under a labor-management agreement ・A worker who has served less than 1 year ・A worker whose regular working days are 2 days or less per week	○ A worker (excluding a day laborer) who takes care of a subject family member in need of nursing care ○ A worker who can be excluded under a labor-management agreement ・A worker who has served less than 1 year ・A worker whose regular working days are 2 days or less per week
	Period and number of times	○ A period exceeding 1 month but not exceeding 1 year for each request ○ No limits in the number of times	○ A period exceeding 1 month but not exceeding 1 year for each request ○ No limits in the number of times
	Procedures	○ Make a request by 1 month prior to the first day of the period	○ Make a request by 1 month prior to the first day of the period
	Exception	○ The employer may reject a request in cases where said request would impede normal business operations.	○ The employer may reject a request in cases where said request would impede normal business operations.
System to limit overtime work	Details of the system	○ When a worker who is raising a pre-school child makes a request for that purpose, an employer must not make the worker work overtime in excess of 24 hours per month and 150 hours per year.	○ When a worker who takes care of a subject family member in need of nursing care makes a request for that purpose, an employer must not make the worker work overtime in excess of 24 hours per month and 150 hours per year.
	Scope of workers covered	○ A worker who is raising a pre-school child However, the following workers are excluded. ・A day laborer ・A worker who has served less than 1 year ・A worker whose regular working days are 2 days or less per week	○ A worker who takes care of a subject family member in need of nursing care However, the following workers are excluded. ・A day laborer ・A worker who has served less than 1 year ・A worker whose regular working days are 2 days or less per week
	Period and number of times	○ A period exceeding 1 month but not exceeding 1 year for each request ○ No limits in the number of times	○ A period exceeding 1 month but not exceeding 1 year for each request ○ No limits in the number of times
	Procedures	○ Make a request by 1 month prior to the first day of the period	○ Make a request by 1 month prior to the first day of the period
	Exception	○ The employer may reject a request in cases where said request would impede normal business operations.	○ The employer may reject a request in cases where said request would impede normal business operations.

		Re. child care	Re. family care
System to limit work at night	Details of the system	○ When a worker who is raising a pre-school child makes a request for that purpose, an employer must not make the worker work at night (22:00 to 5:00).	○ When a worker who takes care of a subject family member in need of nursing care makes a request for that purpose, an employer must not make the worker work at night (22:00 to 5:00).
	Scope of workers covered	○ A worker who is raising a pre-school child However, the following workers are excluded. ・A day laborer ・A worker who has served less than 1 year ・A worker with a family member living together who can take care of the child A family member living together who can take care of the child is 16 years old or over, and A. who is not working at night (including those who work at night on 3 days or less per month), B. who has no difficulty in providing care due to an injury, disease or mental or physical disorder, and C. who is not due to give birth within 6 weeks (or 14 weeks in the case of multiple pregnancy) or is not within 8 weeks after child birth. ・A worker whose regular working days are 2 days or less per week ・A worker whose regular working hours are all during night time	○ A worker who takes care of a subject family member in need of nursing care However, the following workers are excluded. ・A day laborer ・A worker who has served less than 1 year ・A worker with a family member living together who can take care of the relevant family member A family member living together who can take care of the relevant family member is 16 years old or over, and A. who is not working at night (including those who work at night on 3 days or less per month), B. who has no difficulty in providing care due to an injury, disease or mental or physical disorder, and C. who is not due to give birth within 6 weeks (or 14 weeks in the case of multiple pregnancy) or is not within 8 weeks after child birth. ・A worker whose regular working days are 2 days or less per week ・A worker whose regular working hours are all during night time
	Period and number of times	○ A period exceeding 1 month but not exceeding 6 months for each request ○ No limits in the number of times	○ A period exceeding 1 month but not exceeding 6 months for each request ○ No limits in the number of times
	Procedures	○ Make a request by 1 month prior to the first day of the period	○ Make a request by 1 month prior to the first day of the period
	Exception	○ The employer may reject a request in cases where said request would impede normal business operations.	○ The employer may reject a request in cases where said request would impede normal business operations.
Measures to shorten regular working hours or the like		○ For a worker (excluding a day laborer) who is raising a child under 3 years of age and does not take child care leave (excluding such worker whose regular working hours are 6 hours or shorter per day), an employer must take measures such as shortening regular working hours to 6 hours or shorter. However, these measures do not apply to workers who fall under any of the following and are excluded from the application of the measures as specified in a labor-management agreement. 1. A worker who has served less than 1 year 2. A worker whose regular working days are 2 days or less per week 3. A worker to whom it is difficult to apply a shorter working hours system in light of the nature of his/her duties or the operational system ○ When an employer decided not to take measures to shorten regular working hours for workers falling under 3. above, the employer must take some of the following measures.	○ For a worker (excluding a day laborer) who takes care of a subject family member regularly in need of nursing care, an employer must take measures to enable him/her to use any of the following measures for each subject family member at least twice during 3 or more years after commencing the use thereof. ・Take measures to shorten regular working hours ・Adopt a flextime system ・Move up or down of the starting time or finishing time ・Provide financial assistance for expenses for nursing services used by the worker or take other equivalent measures However, these measures do not apply to workers who fall under any of the following and are excluded from the application of the measures as specified in a labor-management agreement. 1. A worker who has served less than 1 year 2. A worker whose regular working days are 2 days or less per week

	・Take measures equivalent to a child care leave system ・Adopt a flextime system ・Move up or down the starting time or finishing time ・Establish and run a child care facility, or extend any other equivalent preferential measures	
Measures for workers raising a pre-school child or taking care of a family member	○ For a worker raising a pre-school child, an employer must make efforts to take necessary measures equivalent to a child care leave system, a system to limit work in excess of regular working hours, measures to shorten regular working hours, or a flextime system. ○ For a worker raising a pre-school child, an employer must make efforts to prepare a leave system for a spouse's childbirth or other child care-related leave system.	○ For a worker taking care of a family member, an employer must make efforts to take necessary measures equivalent to a family care leave system or measures to shorten regular working hours, in consideration of the period and the number of times, etc. required for providing nursing care.
Obligations to make child care and family care leave systems, etc. known to individual workers	○ When receiving a notification concerning the pregnancy, childbirth, etc. of a worker or a worker's spouse, an employer must provide the worker with sufficient information on the child care leave system, etc. and confirm whether he/she intends to take leave or not, individually.	—
	○ An employer must endeavor to specify the following matters in advance in the rules of employment, etc. and take measures to make them known to all workers and to each of them individually. (i) Particulars related to treatment for a worker during a period of child care leave and family care leave (ii) Particulars related to working conditions after the child care leave and family care leave, such as wages and assignments (iii) Particulars related to the timing to restart the provision of labor in cases where the period of child care leave or family care leave ended due to discontinuation of child rearing or nursing care (iv) Particulars related to how to pay social insurance premiums during a period of family care leave ○ When an employer came to know that a worker or a worker's spouse has become pregnant or given birth or a worker is taking care of his/her family member, the employer must make efforts to individually inform the relevant worker of the related systems (information other than that on the child care leave system that the employer must disseminate among workers).	
Development of the employment environment	○ In order to ensure workers' smooth applications for child care leave and parental leave, an employer must take any of the following measures. ・Provision of training concerning child care leave and parental leave ・Development of a consultation system concerning child care leave and parental leave ・Compilation and provision of concrete examples of one's own workers' acquisition of child care leave and parental leave ・Dissemination of information regarding one's own system and policy concerning child care leave and parental leave internally to workers	
Measures to prevent harassment concerning child care leave, etc.	○ An employer must ensure that workers' working environments are not damaged by reason of their application for or use of child care leave, parental leave, family care leave or other systems or measures concerning child care or family care by developing a system necessary for responding to and handling workers' consultations or otherwise taking measures necessary for employment management.	
Consideration concerning assignments of workers	○ When intending to change workers' assignments involving changes in workplaces, an employer must give due consideration to the situation of child care or family care regarding any worker who would face difficulties in raising a child or taking care of a family member due to a change in workplace.	
Prohibition of disadvantageous treatment	An employer is prohibited from treating workers disadvantageously on the grounds of ○ their application for or use of child care leave, parental leave, or family care leave, sick/injured child care leave, nursing leave, or measures concerning limitation on work in excess of regular working hours, limitation on overtime work, limitation on work at night, or shortening of regular working hours, etc. ○ filing of a notification concerning their own or their spouses' pregnancy, childbirth, etc. ○ failure to report their days available for work, etc. during parental leave or to give consent thereto	
Publication of the status of workers' acquisition of child care leave	○ Companies that regularly employ over 1,000 workers are subject to the obligation. ○ The rate of male workers' acquisition of child care leave, etc. (acquisition of leave for the purpose of child rearing may be included) should be disclosed once a year.	

III. Obligation to Establish General Employers Action Plan under the Act on Advancement of Measures to Support Raising Next-Generation Children

In order to develop an environment wherein all children, who will lead the next-generation society, can grow soundly, the national and local governments, employers, and the citizens are required to respectively support raising of children based on the Act on Advancement of Measures to Support Raising Next-Generation Children.

An employer, other than the national and local governments, who regularly employs over 100 workers is obliged to establish a general employers' action plan to ensure workers' work-life balance, in line with the Employers Action Plan Formulation Guidelines, notify the competent Prefectural Labour Bureau of the content of the established plan, and also publicize it. (An employer who regularly employs 100 workers or less is required to make efforts.) A general employers' action plan must contain [i] the plan period, [ii] the goals, and [iii] details of the measures for achieving the goals and the implementation period.

Companies that have achieved the goals decided in an action plan or have otherwise satisfied a certain level can file an application and obtain approval of the Minister of Health, Labour and Welfare (*Kurumin* Approval, etc.). When a company that had obtained the *Kurumin* Approval has made further efforts and has satisfied a certain higher level, it can obtain special approval (Platinum *Kurumin* Approval, etc.).

Companies that have obtained approval or special approval can use the authorized mark as child rearing support companies and can receive preferential evaluations, etc. in public procurement processes.

Chapter 11: Prohibition of Discrimination and Countermeasures against Harassment

I. Prohibition of Discriminatory Treatment on the Basis of Sex

Article 4 of the Labor Standards Act provides that an employer must not use the fact that a worker is a woman as a basis for engaging in differential treatment in comparison to men with respect to wages.

Additionally, the Equal Employment Opportunity Act prohibits discrimination on the basis of sex with regard to recruitment and employment, assignment, promotion, demotion, and training of workers, fringe benefits, change in job type and employment status of workers, and encouragement of retirement, mandatory retirement age, dismissal, and renewal of the labor contract (Articles 5 and 6 of the Equal Employment Opportunity Act). Prohibited discrimination and concrete examples are as shown below.

< Prohibited discrimination on the basis of sex and concrete examples >

Prohibited discrimination		Examples
1. Assignments	A. Exclude either sex from candidates for the assignment to certain duties	Assign only workers of either sex with duties that often require overtime work
	B. Apply different conditions between men and women for the assignment to certain duties	Exclude only female workers when assigning certain duties on the grounds of being married or raising a child, or on the basis of age
	C. Apply different methods or criteria between men and women when judging the ability and qualification for the assignment to certain duties	Apply different criteria for passing an exam between men and women for the assignment to duty A
	D. Prefer either sex for the assignment to certain duties	When there are multiple workers satisfying the criteria for assigning to department A, assign male workers preferentially
	E. Treat men and women differently upon allocation of duties at a workplace	At department A, assign male workers with out-of-office duties and assign female workers only with in-house duties
	F. Treat men and women differently when granting authority upon assignment	Provide female workers with purchasing authority limited to lower prices than male workers
	G. Treat men and women differently upon job transfer	Order temporary transfer only to female workers upon streamlining the business
2. Promotion	A. Exclude either sex from candidates for the promotion to certain managerial positions	Exclude female workers from chances to get promoted to managerial positions or set limits on available positions only for female workers
	B. Apply different conditions between men and women for the promotion to certain managerial positions	Establish a rule only applicable to female workers that they cannot get promoted or can get promoted only up to certain positions on the grounds of being married or raising a child, or on the basis of age
	C. Apply different methods or criteria between men and women when judging the ability and qualification for the promotion to certain managerial positions	Promote male workers when they obtain average personnel evaluations, while only promoting female workers who are especially highly evaluated
	D. Prefer either sex for the promotion to certain managerial positions	When there are multiple workers satisfying the criteria for getting promoted to certain managerial positions, preferably select male workers
3. Demotion	A. Limit either sex as targets for demotion	When abolishing certain managerial positions, transfer male workers to other equivalent positions and demote only female workers
	B. Apply different conditions between men and women for demotion	Apply conditions for demotion of being married or raising a child only to female workers
	C. Apply different methods or criteria between men and women when judging the ability and qualification for deciding demotion	Under a policy to demote workers with poor sales performance, demote a male worker whose sales performance was the worst and demote female workers with sales performance below the average
	D. Prefer either sex when deciding demotion	When selecting workers to demote due to abolition of certain managerial positions, prefer female workers as targets for demotion
4. Education and training	A. Exclude either sex from the coverage of education and training	Although education and training are intended for all workers engaging in certain duties, provide only workers of either sex with the education and training
	B. Apply different conditions between men and women regarding education and training	Provide education and training to all male workers but to only female workers who wish to receive it
	C. Provide different education and training to men and women	Provide education and training with different content for different periods depending on sex

5. Fringe benefits	A. Exclude either sex from the coverage of fringe benefits	Lend company housing only to male workers
	B. Apply different conditions between men and women regarding fringe benefits	Exclude only married female workers from the scope of workers for lending company housing
6. Change in job type and employment status	A. Exclude either sex from targets for change in job type and employment status	[i] Target only workers of either sex when changing from a non-management track position to a management track position [ii] Target only workers of either sex when changing a status from a fixed-term worker to a full-time worker
	B. Apply different conditions between men and women regarding change in job type and employment status	[i] Apply different years of service between men and women as conditions when changing from a non-management track position to a management track position [ii] Apply different years of service between men and women as conditions when changing a status from a fixed-term worker to a full-time worker
	C. Apply different methods or criteria between men and women when judging the ability and qualification for changing job type and employment status	[i] Apply different criteria for passing an exam between men and women for changing from a non-management track position to a management track position [ii] Apply different criteria for passing an exam between men and women for changing status from a fixed-term worker to a full-time worker
	D. Prefer either sex when deciding change in job type and employment status	[i] Prefer workers of either sex when deciding change in job type from among all workers satisfying criteria for changing from a non-management track position to a management track position [ii] Prefer workers of either sex when deciding change in employment status from among all workers satisfying criteria for changing a status from a part-time worker to a full-time worker
	E. Treat men and women differently regarding change in job type and employment status	[i] Change job types only for female workers on the basis of age, such as from a specialist job like an announcer to a clerical job [ii] Recommend change of an employment status from a full-time worker to a fixed-term worker (to worse working conditions) only to female workers upon streamlining the business
7. Encouragement of retirement or dismissal	A. Limit either sex as targets for dismissal or encouragement of retirement	Dismiss or encourage retirement only targeting female workers for the purpose of streamlining the business
	B. Apply different conditions between men and women regarding dismissal or encouragement of retirement	Dismiss or encourage retirement only targeting married female workers for the purpose of streamlining the business
	C. Apply different methods or criteria between men and women when judging the ability and qualification for deciding dismissal or encouragement of retirement	When there is a need for dismissal or encouragement of retirement upon streamlining the business, target only those with the worst personnel evaluations in the case of male workers, while target all female workers except for those with superior performance
	D. Prefer either sex when deciding dismissal or encouragement of retirement	Prefer female workers as targets for dismissal or encouragement of retirement
8. Mandatory retirement	Apply different rules between men and women regarding mandatory retirement	When raising the mandatory retirement age, set different ages between men and women in consideration of the ages when the payment of employees' pension benefits starts
9. Renewal of the labor contract	A. Exclude either sex from targets for renewal of the labor contract	Renew labor contracts only for male workers upon streamlining the business
	B. Apply different conditions between men and women regarding renewal of the labor contract	Refuse renewal of labor contracts only for female workers upon streamlining the business
	C. Apply different methods or criteria between men and women when judging ability and qualification for renewing the labor contract	Renew labor contracts for male workers with average sales performance, while in the case of female workers, renew labor contracts only for those whose sales performance is excellent
	D. Prefer either sex when renewing the labor contract	Prefer male workers for renewal of labor contracts from among all workers satisfying the criteria for renewing labor contracts

II. Prohibition of Discrimination against Persons with Disabilities and Obligation to Give Reasonable Consideration

The amendment of the Act on Employment Promotion etc. of Persons with Disabilities introduced the prohibition of discrimination against persons with disabilities and obligation to give reasonable consideration in employment (enforced on April 1, 2016).

Targets include persons with physical disabilities, persons with intellectual disabilities, persons with mental disorders (including persons with developmental disabilities), and persons who have considerable constraints or extreme difficulties in vocational life over a long period of time due to other mental or physical disabilities, and are not limited to holders of disability certificates.

1. Prohibition of Discrimination against Persons with Disabilities

Unfair discriminatory treatment of persons on the grounds of existence or non-existence of disabilities is prohibited in all aspects of employment, including recruitment and employment, wages, assignment, promotion, vocational training, and fringe benefits (Articles 34 and 35 of the Act on Employment Promotion etc. of Persons with Disabilities).

[Prohibited discrimination]

- Exclude a person on the grounds of having disabilities
- Set disadvantageous conditions only for persons with disabilities
- Prefer persons without disabilities

- Concrete examples of discrimination -

- Do not accept a job application only on the grounds that a person has disabilities
- Assign (or do not assign) specific duties or refuse promotion not based on a person's ability to perform duties but only on the grounds that a person has disabilities
- Prevent only persons with disabilities from receiving vocational training

2. Obligation to Give Reasonable Consideration to Persons with Disabilities

Irrespective of business types or business sizes, all employers are obliged to take measures to secure equal opportunities for all persons with or without disabilities upon recruitment and employment, and to take measures to improve circumstances in the workplace that cause hindrances to persons with disabilities they employ (Articles 36-2 and 36-3 of the Act on Employment Promotion etc. of Persons with Disabilities).

Employers are to be exempted from the obligation to give reasonable consideration if it imposes an excessive burden on them.

- Concrete examples of reasonable consideration -

- Conduct a recruitment interview in writing with a person with hearing impairment or language disorders
- Prepare a work manual using figures and illustrations for a person with intellectual disabilities to show him/her work procedures in an easy-to-understand manner
- Prepare and admit use of sunglasses or earplugs for a person with developmental disabilities in order to reduce hyperesthesia
- Adjust the height of a desk and working tables for a person in a wheelchair

・Change commuting time in order to avoid the rush hour

[Employers' responsibility in giving reasonable consideration]

1. Procedures at the time of recruitment and employment

[i] A person with disabilities explains circumstances causing hindrances and requests necessary consideration.

[ii] When receiving requests, the employer discusses with the person what consideration should be given.

[iii] The employer explains the details of the reasonable consideration to be given.

When requests from a person with disabilities impose an excessive burden, the employer explains the reasons why he/she is unable to respond to them and offers options of other easier measures.

2. Procedures after employment

[i] The employer ascertains and confirms who need reasonable consideration. Irrespective of whether requests have been made by persons with disabilities, the employer him/herself checks the necessity of giving any consideration. On this occasion, the employer should seek requests for reasonable consideration from all workers basically by uniform means such as sending e-mail, delivering documents, announcement in an in-house magazine targeting all workers.

[ii] The employer discusses with persons with disabilities to directly confirm the status of their disabilities, circumstances causing hindrances in their workplaces, and their intentions concerning reasonable consideration.

[iii] The employer determines reasonable consideration to be given, while respecting intentions of persons with disabilities themselves, and informs them of the results. On this occasion, if any requests from persons with disabilities impose an excessive burden and therefore the employer decided to take easier measures, the employer must explain the reason therefor.

3. Development of a consultation system and handling of complaints

○ The employer is obliged to develop a consultation system, such as establishing a consultation office, in order to properly respond to consultations from persons with disabilities.

○ Additionally, the employer is required to make efforts to voluntarily resolve complaints from persons with disabilities concerning prohibition of discrimination against persons with disabilities and reasonable consideration to be given to them.

→ When voluntary resolution is difficult, a dispute settlement assistance system may be utilized.

3. Development of Consultation System, Handling of Complaints, and Dispute Settlement Assistance System

An employer is obliged to develop a consultation system, such as establishing a consultation office, in order to properly respond to consultations from persons with disabilities.

Additionally, an employer is required to make efforts to voluntarily resolve complaints from persons with disabilities concerning prohibition of discrimination against persons with disabilities and reasonable consideration to be given to them (Article 74-4 of the Act on Employment Promotion etc. of Persons with Disabilities).

When voluntary resolution is difficult, the following two types of assistance are available as a dispute settlement assistance system.

[Dispute settlement assistance system]

・Assistance by a Director of a Labor Bureau (advice, guidance or recommendation)

・Conciliation by a third party (conciliation by the Conciliation Committee on Employment of Persons with Disabilities)

III. Countermeasures against Sexual Harassment in the Workplace

Sexual harassment in the workplace is a significant issue for workers, irrespective of gender, and is not socially permissible.

Sexual harassment, once occurring, often causes both harassees and harassers to resign and worsens human relationships within the workplace, and thus significantly damages corporate management.

Therefore, the Equal Employment Opportunity Act requires an employer to establish necessary measures in terms of employment management to give advice to workers and prohibits dismissal and other discriminatory treatment on grounds that a worker has consulted with the employer about sexual harassment or has stated the truth when cooperating with the employer's responses to such consultation (Article 11 of the Equal Employment Opportunity Act).

Sexual harassment in the workplace includes that against the same sex.

Additionally, certain language and behavior may fall under sexual harassment irrespective of the other party's sexual orientation or gender identity (language and behavior including such terms as "homosexual," "gay," or "lesbian" may lead to sexual harassment). The ideas and cases of sexual harassment and measures to be taken by employers are explained below.

1. Sexual Harassment in the Workplace

(1) Workplaces and workers

(Workplaces)

Workplaces are where workers employed by an employer perform duties, including places other than the normal workplace if only workers perform duties there. Even a party during off-duty hours, if it is substantially an extension of the workplace, may fall under the workplace.

[Examples of workplaces]

A client's office, a place to have dinner for business talk with a client, a destination of a business trip, in a vehicle (in the case of a sales person or bus tour guide, etc.), a customer's house (in the case of an insurance agent, etc.), a news source's place (in the case of a reporter), etc.

(Workers)

Workers include all workers employed by an employer, not only regularly employed workers but also non-regular workers, such as part-time workers and contract workers, irrespective of gender. With regard to dispatched workers, the provisions concerning measures in terms of employment management apply to employers on both the dispatching side and accepting side.

(2) Sexual language and behavior

Sexual language and behavior are words and deeds involving sexual content.

[Examples of sexual language and behavior]

[i] Sexual comments

Sexual jokes and teasing, insistent requests for having dinner or dating, intentional dissemination of sexual rumors, and talks or questions about personal experience

[ii] Sexual behavior

Forcing someone to have an intimate relationship, unnecessary physical contact, and the distribution of nude posters or other indecent pictures

(3) Quid pro quo sexual harassment

Quid pro quo sexual harassment means a situation where a worker suffers any disadvantage, such as dismissal, demotion, wage reduction, by reason of his/her refusal or resistance to sexual language or behavior against his/her will in the workplace.

[Typical examples]

[i] An employer requested a worker to have an intimate relationship in the office but was rejected, and later dismissed the worker for that reason.

[ii] A superior touched a worker's waist and breast, etc. in a vehicle during a business trip but the worker resisted, and the superior later reassigned the worker disadvantageously for that reason.

[iii] An employer regularly talked about a worker's sexual matters publicly in the business office but received an objection from the worker, and later demoted the worker for that reason.

(4) Hostile environment sexual harassment

Hostile environment sexual harassment means a situation where sexual language and behavior against a worker's will in the workplace makes the worker's working environment uncomfortable and exerts negative impact on fulfillment of his/her potential or otherwise causes hindrances to his/her work to a level that cannot be overlooked.

[Typical examples]

[i] An employer often touches a worker's waist and breast, etc. in the office, and the worker suffers badly and loses the willingness to work.

[ii] A coworker intentionally and continuously spreads a worker's sexual information among clients, and the worker suffers badly and cannot concentrate on work.

[iii]Despite opposition from other workers, a coworker views adult websites using a PC for daily duties, and workers suffer badly and cannot concentrate on work.

2. Measures in Terms of Employment Management to be Taken by Employers

Irrespective of sizes of companies or offices and the circumstances in workplaces, employers must take measures as mentioned in (1) to (4) below in order to prevent sexual harassment.

(1) Clarification of employer's policies and dissemination and awareness-raising efforts

In order to prevent harassment in the workplace, it is important for an employer him/herself to first clarify the policies specifying the details of impermissible harassment in the workplace and presenting his/her strong will not to permit any harassment, and to disseminate the policies and raise awareness among all workers including managers. On that occasion, attention should be paid to the possibility that language and behavior based on preconceptions about the division of roles between men and women underlie sexual harassment and to the awareness that elimination of such language and behavior is important in enhancing the effects of preventive measures against harassment.

Concrete examples include clearly specifying the details of impermissible harassment and the policy to prohibit harassment in the workplace in the rules of employment, publicizing those basic policies through an in-house magazine, in-house website or other PR media, and providing related training and lectures.

Additionally, the policy to take strict measures against persons who made or committed sexually indecent comments or deeds in the workplace and concrete punishments (disciplinary code) should be provided in the rules of employment or other documents stipulating service rules, and should be disseminated among all workers including managers to raise their awareness.

(2) Development of a system to properly respond to consultations and complaints

Regarding harassment in the workplace, it is important not only to make responses after occurrence but also to put in place preventive measures. For that purpose, an employer needs to develop a system to enable workers to easily make consultations and file complaints concerning harassment by clarifying where to accept consultations and complains, such as [i] appointing personnel in charge of consultations in advance, [ii] developing a system to respond to consultations, or [iii] outsourcing responses to consultations to external organizations, and thereby properly and flexibly respond to consultations and complaints from workers.

There are various forms of harassment and it is sometimes difficult to judge whether certain language or behavior falls under harassment. In some cases, situations are judged as posing no particular problems but may lead to harassment if left unaddressed.

The scope of consultations and complaints to be accepted should be set broadly enough from the perspective of preventing harassment from occurring and should include cases where situations do not fall under harassment in the workplace in a strict sense but are likely to lead to harassment or where judgment as to whether such situations fall under harassment or not is difficult, while taking into account the possibility that a victimized worker may hesitate to consult about the harassment and also giving due consideration to the consulter's physical and mental conditions and how he/she recognized the relevant language or behavior at that time. For example, a situation that may end up damaging a working environment if left unaddressed, and a case where language and behavior based on preconceptions about the division of roles between men and women are likely to cause harassment should be covered.

(3) Prompt and proper responses when harassment has occurred in the workplace

If harassment in the workplace is left unaddressed or inappropriate responses are made therefor, this may exert a bad influence on a working environment and further cause harassment.

In order to prevent recurrence of harassment in the workplace, it is necessary to promptly and correctly ascertain the facts and make proper responses in accordance with the circumstances. On that occasion, not only punishments to the doer but also measures for the victim should be taken properly. Concrete measures include offering assistance to improve the relationship between the victim and the doer, conducting reassignment to separate the victim and the doer, and having managers and supervisors or industrial health staff, etc. provide the victim with counseling on mental health disorders.

(4) Protection of privacy and prohibition of disadvantageous treatment

Information concerning consultations on harassment in the workplace is personal information, and an employer must take measures to protect privacy of consulters.

It is not permitted to treat workers disadvantageously on the grounds of making consultations on harassment or offering cooperation for fact finding. Therefore, an employer must prohibit such disadvantageous treatment in the company and disseminate that policy among workers to raise awareness.

IV. Countermeasures against Harassment in Relation to Pregnancy, Childbirth, and Child Care Leave, etc. in the Workplace

Harassment in the workplace in relation to pregnancy, childbirth and child care leave, etc. means a situation where language and behavior of superiors or coworkers (relating to the pregnancy, childbirth and the use of child care leave, etc.) damage the working environment of a female worker who is pregnant or has given birth or a worker, irrespective of gender, who applied for and took child care leave, etc.

Needless to say, the employer him/herself must not commit harassment and also has to take measures to prevent harassment in the workplace in relation to pregnancy, childbirth, and child care leave or family care leave, etc. (Article 11-3 of the Equal Employment Opportunity Act and Article 25 of the Child Care and Family Care Leave Act).

Incidentally, language and behavior objectively based on the operational necessity from the perspective of dividing duties and ensuring safety do not fall under harassment.

1. Details of Harassment in Relation to Pregnancy, Childbirth, and Child Care Leave, etc.

Harassment in the workplace in relation to pregnancy, childbirth and child care leave, etc. consists of "(1) Harassment concerning the use of systems, etc." and "(2) Harassment concerning the circumstances."

(1) Harassment concerning the use of systems, etc.

This harassment means a situation where language and behavior in relation to a worker's use of the relevant systems or measures (the systems, etc.) damage the worker's working environment.

[Typical examples]

[i] A worker consulted with her superior concerning the acquisition of maternity leave before childbirth, but the superior said "If you take a leave, we will fire you."

[ii] A worker consulted with his superior concerning the acquisition of child care leave, but the superior said "It is unheard of that a male worker takes child care leave." The worker is forced to give up taking child care leave.

[iii] A superior and coworkers repeatedly or continuously say "We cannot assign significant duties to a person who limits overtime work." and a worker is forced to do only odd duties, facing hindrances to his/her work to a level that cannot be overlooked (including further language and behavior after the worker complained that their language and behavior are not acceptable).

(2) Harassment concerning the circumstances

This harassment means a situation where language and behavior in relation to a worker's pregnancy and childbirth damages the worker's working environment.

[Typical examples]

[i] A worker reported her pregnancy to her superior, but the superior said "You should resign soon, as we will hire another person."

[ii] A superior and coworkers repeatedly or continuously say "We cannot entrust duties to a pregnant woman as she may be absent unexpectedly." and a worker has not been assigned with duties, facing hindrances to her work to a level that cannot be overlooked (including further language and behavior after the worker complained that their language and behavior are not acceptable).

[iii] A superior and coworkers repeatedly or continuously say "You should avoid the busy season to get pregnant." and this causes hindrances to a worker's work to a level that cannot be overlooked (including further language and behavior after the worker complained that their language and behavior are not acceptable).

2. Measures in Terms of Employment Management to be Taken by Employers

Irrespective of sizes of companies or offices and the circumstances in workplaces, employers must take measures as mentioned in (1) to (5) below in order to prevent harassment in relation to pregnancy, childbirth and child care leave, etc.

* (2) to (3) and (5) are the same as explained for sexual harassment in III. above. Only (1) and (4) below are unique for harassment in relation to pregnancy, childbirth and child care leave, etc.

(1) Clarification of employer's policies and dissemination and awareness-raising efforts

Behind harassment in relation to pregnancy, childbirth and child care leave, etc. lies a work climate to make it difficult to apply for or use the systems, etc., such as frequent negative language and behavior (language and behavior that implicitly deny other workers' pregnancy and childbirth, etc., including negative language and behavior against fertility treatment, or implicitly deny the use of the systems, etc., excluding the mere presentation of one's own will but including language and behavior not directly targeting the relevant worker), and insufficient dissemination of information concerning the systems, etc. An employer needs to endeavor to deepen understanding concerning the systems, etc. of all workers, not limited to workers using them, and devise a means to make it easier to apply for and use the systems, etc.

Negative language and behavior concerning pregnancy, childbirth and child care leave, etc. include those not directly targeting the relevant worker. For example, when a couple work at the same company, negative language and behavior not targeting the person taking child care leave but targeting his/her spouse are likely to cause harassment in relation to pregnancy, childbirth and child care leave, etc.

(2) Development of a system to properly respond to consultations and complaints

(3) Prompt and proper responses when harassment has occurred in the workplace

(4) Measures for eliminating factors that may cause harassment in the workplace in relation to pregnancy and childbirth, etc.

An employer needs to develop operational systems or otherwise take measures necessary for eliminating factors that may cause harassment in relation to pregnancy, childbirth and child care leave, etc. in accordance with the current status of the company, a worker who is pregnant or has given birth, etc. and other workers.

Concrete measures include proper review of division of duties in order to reduce additional burdens on workers working with a worker who is pregnant or has given birth, etc.

(5) Protection of privacy and prohibition of disadvantageous treatment

V. Countermeasures against Power Harassment in the Workplace

The Labor Policies Comprehensive Promotion Act requires an employer to establish necessary measures in terms of employment management to give advice to workers and prohibits dismissal and other discriminatory treatment on grounds that a worker has consulted with the employer about power harassment or has stated the truth when cooperating with the employer's responses to such consultation (Article 30-2 of the Labor Policies Comprehensive Promotion Act).

1. Power Harassment in the Workplace

Power harassment in the workplace means [i] language and behavior in the workplace backed by a superior-inferior relationship [ii] that go beyond a scope necessary and appropriate in performing duties and [iii] which damage workers' working environment. These elements [i] to [iii] need to be all satisfied.

Proper operational instructions and guidance that are objectively within a scope necessary and appropriate in performing duties do not fall under power harassment in the workplace.

Whether specific language or behavior falls under power harassment in the workplace needs to be judged by comprehensively considering the matters mentioned in (2) below and the level of physical or mental damage suffered by a worker due to the relevant language or behavior.

(1) Language and behavior backed by a superior-inferior relationship

This means a situation where the relevant language or behavior is backed by a relationship in which a targeted worker is highly likely to be unable to resist or refuse the person who uses such language or behavior (hereinafter referred to as an "actor") in performing duties.

[Examples of language and behavior backed by a superior-inferior relationship]

[i] Language and behavior of a person in a superior job position

[ii] Language and behavior of a coworker or a subordinate who has necessary knowledge and rich experience in performing duties and without whose cooperation it is difficult to smoothly perform duties

[iii] An act by a group of coworkers or subordinates which it is difficult to resist or refuse

(2) Language and behavior that go beyond a scope necessary and appropriate in performing duties

This means a situation where the relevant language or behavior is obviously unnecessary for the employer's business or the mode of the language or behavior is obviously inappropriate in light of social norms.

When making a judgment, it is necessary to comprehensively take into account various elements (purpose of the relevant language and behavior; circumstances and developments leading to the relevant language and behavior, including whether the targeted worker has conducted any problematic acts and the content and level of problematic acts, if any; business type and mode; details and nature of duties; mode, frequency and continuity of the relevant language and behavior; attributes and physical and mental conditions of the worker; relationship with the actor, etc.).

On that occasion, it should be noted that in a specific case where a worker's acts cause the relevant language and behavior, a relative relationship between the content and level of such problematic acts and the mode of a superior's guidance therefor is a key element. Even if a worker's acts are problematic, language and behavior that go beyond a scope necessary and appropriate in performing duties, such as denying the worker's personality, fall under power harassment in the workplace.

[Examples of language and behavior that go beyond a scope necessary and appropriate in performing duties]

[i] Language and behavior obviously unnecessary in performing duties

[ii] Language and behavior significantly deviating from the purpose of duties

[iii] Language and behavior inappropriate as a means to perform duties

[iv] Language and behavior whose mode and means are found to go beyond a scope permissible in light of social norms, in consideration of the frequency of problematic acts and the number of actors, etc.

(3) Cases where workers' working environment is damaged

This means a situation where workers suffer physically or mentally due to such language or behavior mentioned in (1) and (2) above, and this exerts serious adverse effects, making it difficult for workers to fulfill their abilities in an unpleasant working environment, thus hindering workers' performance to the level that cannot be overlooked.

In this case, it is appropriate to make a judgment based on a criterion of how average workers feel, in other words, whether the relevant language and behavior, when received in a similar situation, would cause workers in general to feel that their performance was hindered thereby to the level that cannot be overlooked.

The frequency and continuity of language and behavior are taken into consideration, but language and behavior in a mode to cause strong physical or mental sufferings may damage workers' working environment even if conducted only once.

(4) Typical types of representative language and behavior that constitute power harassment

Typical types of power harassment are as follows.

[i] Physical attack (violence, insult)

[ii] Mental attack (threat, defamation, insult, serious abusive language, etc.)

[iii] Separation from human relationships (isolation, ostracizing, disregard)

[iv] Excessive demands (forcing duties that are evidently unnecessary or impossible, hindering work)

[v] Excessively easy demands (ordering duties of low levels unreasonably removed from the person's ability and experience, or refusing to assign duties)

[vi] Infringement of privacy (excessively intruding on privacy)

Insulting language and behavior relating to another person's sexual orientation and gender identity and so-called "outing" to disclose another person's sexual orientation or gender identity without obtaining his/her consent may also fall under power harassment in the workplace.

These are non-limitative examples. As judgments may differ depending on circumstances of individual cases, companies need to respond to consultations broadly, including cases where it is not clear whether they fall under power harassment in the workplace or not.

2. Measures in Terms of Employment Management to be Taken by Employers

Irrespective of sizes of companies or offices and the circumstances in workplaces, employers must take measures as mentioned in (1) to (4) below in order to prevent power harassment in the workplace.

* (1) to (4) are the same as those explained for sexual harassment in III. above.

(1) Clarification of employer's policies and dissemination and awareness-raising efforts

(2) Development of a system to properly respond to consultations and complaints

(3) Prompt and proper responses when harassment has occurred in the workplace

(4) Protection of privacy and prohibition of disadvantageous treatment

VI. Obligation to Establish General Employers Action Plan under the Female Participation Promotion Act, etc. and to Disclose Information on Women's Active Participation

The Female Participation Promotion Act provides for efforts to be made by general employers, in addition to efforts by the national and local governments, in order to steadily promote the social participation of women. Specifically, the Act obliges an employer who regularly employs 101 or more workers to [i] ascertain the status of female workers' participation in the company and analyze problems, [ii] establish an action plan based on the ascertained status and analyzed problems, disseminate it within the company and also make it public, [iii] notify the competent Prefectural Labour Bureau of the establishment of the action plan, and [iv] publicize information concerning female workers' participation in the company.

An employer who regularly employs 100 or less workers is required to make efforts for [i] to [iv] above.

Since July 8, 2022, an employer who regularly employs 301 or more workers has come to be obliged to ascertain and publicize differences in wages between male workers and female workers.

Out of employers who have established an action plan and filed a notification, those who achieved excellent participation of female workers can file an application to the competent Prefectural Labour Bureau and obtain the authorization, "*Eruboshi*," from the Minister of Health, Labour and Welfare. Furthermore, if employers

who had obtained this authorization have made further advanced efforts and satisfied certain criteria, they can obtain the special authorization, "Platinum *Eruboshi*."

Employers who have obtained the authorization and special authorization may use the authorization marks as companies that are promoting female participation. They may attach the "*Eruboshi*" mark and the "Platinum *Eruboshi*" mark to their products and job-opening sheets available at Hello Work to advertise that they are positive in promoting female participation, thereby obtaining chances to secure excellent personnel or enhance their corporate image and also receive preferential evaluations, etc. in public procurement processes.

Chapter 12: Special Regulations Concerning Minors

I. Age Restrictions

An employer must not employ children until the end of the first 31st of March that occurs on or after the day when they reach the age of 15 years, in principle (Article 56 of the Labor Standards Act).

II. Limitation on Overtime Work and Work on Days Off

Minors are persons under 18 years of age.

Statutory working hours are strictly applied to minors and overtime work and work on days off are prohibited for minors, in principle. Additionally, an employer must not have minors work under various variable working hours systems (Article 60 of the Labor Standards Act). However, exceptionally, regarding minors over 15 and under 18 years of age (excluding the period until the first 31st of March that occurs on or after the day when they reach 15 years of age), it is permitted:

[i] when the working hours for any one day of the week has been reduced to no more than 4 hours, to extend the working hours for the other days of the week up to 10 hours; and

[ii] to have them work under a one-month variable working hours system or a one-year variable working hours system within the scope not exceeding 48 hours per week and not exceeding eight hours per day.

In cases of extraordinary need due to disaster or other unavoidable events, an employer may have minors work overtime and on days off to the extent that is needed, on the condition of obtaining permission from or filing a notification to the Director-General of the competent Labour Standards Inspection Office (Article 33 of the Labor Standards Act).

III. Prohibition of Work at Night

An employer must not have minors under 18 years of age work at night (from 22:00 to 5:00), in principle (Article 61 of the Labor Standards Act). However, it is permitted:

[i] to have males aged 16 years or over work at night when employing them on a shift work basis:

[ii] to have minors under 18 years of age work until 22:30 in workplaces where work is done in shifts by obtaining permission from the Director-General of the competent Labour Standards Inspection Office; and

[iii] to have minors under 18 years of age work at night to the extent that is needed, when having workers work overtime or on days off in cases of extraordinary need due to disaster or other unavoidable events (Article 33 of the Labor Standards Act).

IV. Limitation on Work for Minors

As minors are immature physically and mentally, an employer is prohibited to have minors engage in a total of 45 types of work, such as work dangerous or injurious to their health or welfare (Articles 62 and 63 of the Labor Standards Act). However, regarding minors receiving vocational training which has received recognition under the Act for the Promotion of Human Resources Development, an employer may have them engage in certain work out of the dangerous and injurious work shown in (1) below when having obtained permission from the Director-General of the competent Labour Standards Inspection Office.

(1) Dangerous and injurious work

[i] Work involving the handling of heavy materials (Article 7 of the Rules on Labor Standards for Minors)

Age and gender		Weight (kg)	
		Intermittent work	Continuous work
Aged under 16	Female	12	8
	Male	15	10
Aged 16 or over but under 18	Female	25	15
	Male	30	20

[ii] Work injurious to minors' safety (Article 8 of the Rules on Labor Standards for Minors)

Handling boilers (excluding small boilers; hereinafter the same)	item (i)
Welding boilers	item (ii)
Operating a crane, derrick, or cargo lifting appliance	item (iii)
Screening of a film other than a slow-burning one	item (iv)
Operating an elevator (with a maximum loading capacity of no less than 2 tons)	item (v)
Driving a power-driven rail transporter or motor truck (with a maximum loading capacity of no less than 2 tons)	item (vi)
Operating a power-driven winch (excluding an electrical hoist and air hoist), transporter or cableway	item (vii)
Checking, repairing or operating a charged electric furnace (over 750V (DC) and 300V (AC)) or its support	item (viii)
Cleaning, feeding, checking or repairing an engine or a power transfer device from an engine to a middle shaft at work, or changing belts therein	item (ix)
Slinging operation for a crane, derrick, etc. (excluding assistance)	item (xi)
Lighting a liquid burner (with maximum consumption of no less than 400L per hour)	item (xi)
Operating power-driven civil engineering machinery or ship freight handling machinery	item (xii)
Roll kneading of rubber, rubber compound, or synthetic resin	item (xiii)
Supplying lumber to a circular saw (with a diameter of 250mm or larger) or to a band mill (with a diameter of 750mm or larger)	item (xiv)
Adjusting and cleaning molds of a power-driven press machine or shear blades	item (xv)
Exchanging, etc. track vehicles within a switching yard	item (xvi)
Solo work in a track (a line-of-sight distance of 400m or less within a tunnel, a place with frequent vehicle traffic)	item (xvii)
Metal processing using a press machine or forging machine powered with steam or compressed air	item (xviii)
Processing steel plate with a thickness of 8mm or more using a power-driven press machine or shears	item (xix)
Handling a hand feed planer or short axis chamfering machine	item (xxi)
Supplying materials to a crushing machine or smasher of rocks or minerals	item (xxii)
Working in a place with a risk of land slide or in a hole with a depth of 5m or more	item (xxiii)
Working at a place with a risk of injury due to fall (a height of 5m or more)	item (xxiv)
Assembling, demolishing or changing scaffolds (excluding assistance on the ground)	item (xxv)
Cutting a tree (with a breast-height diameter of 350mm or larger)	item (xxvi)
Carrying out lumber using a skyline logging cable crane, logging cableway, etc.	item (xxvii)
Manufacturing or handling gunpowder, explosives, or initiating devices that may explode	item (xxviii)
Manufacturing or handling dangerous materials (explosives, etc. set forth in Appended Table 1 of the Industrial Safety and Health Act) that may explode, ignite or catch fire	item (xxix)
Manufacturing or using compressed gas or liquefied gas	item (xxxi)

[iii] Work injurious to minors' health (Article 8 of the Rules on Labor Standards for Minors)

Handling harmful materials, such as mercury, arsenic, yellow phosphorus, hydrofluoric acid, hydrochloric acid, and nitric acid	item (xxxii)
Working in a place exuding gas, vapor or dust of harmful materials, such as lead, mercury, and chromium	item (xxxiii)
Working in a place where a large amount of dust or powder of soil and stones scatters	item (xxxiv)
Working while being exposed to radium rays, X-rays and other harmful radiation	item (xxxv)
Handling a large amount of materials of high temperatures and working in an extremely hot place	item (xxxvi)
Handling a large amount of materials of low temperatures and working in an extremely cold place	item (xxxvii)

Working under an extraordinary atmospheric pressure	item (xxxviii)
Using machinery or equipment causing strong vibrations to the body, such as a rock drill and tacker	item (xxxix)
Working in a place with extreme noise	item (xl)
Work posing a risk of significant contamination with pathogens	item (xli)

[iv] Work injurious to minors' welfare (Article 8 of the Rules on Labor Standards for Minors)

Incineration, cleaning or slaughtering	item (xlii)
Working in a prison or asylum	item (xliii)
Serving at banquets having alcoholic beverages	item (xliv)
Entertainment work for special events	item (xlv)

(2) Prohibition of belowground work

Belowground work is prohibited for minors.

V. Others

1. Labor Contracts of Minors

A labor contract must be concluded with the worker him/herself even in the case of a minor.

A person who has parental authority for, or is the legal guardian of a minor, or the Director-General of the competent Labour Standards Inspection Office, may cancel a labor contract prospectively if they consider the contract disadvantageous to the minor (Article 58 of the Labor Standards).

2. Minors' Request for Wages

Minors may request their wages independently. A person who has parental authority for, or is the legal guardian of a minor must not receive the wages earned by the minor in his/her place (Article 59 of the Labor Standards).

3. Keeping of Minors' Age Certificates

An employer who employs a minor under 18 years of age must keep at the workplace a family register certificate that certifies the age of the minor (Article 57 of the Labor Standards).

It suffices to keep a certificate of matters entered in a residence certificate that certifies the relevant minor's name and date of birth (Kihatsu No.83 of February 17, 1975 and Fuhatsu No.40).

Chapter 13: Termination of Labor Relationship, etc.

Termination of a labor relationship means that a worker leaves the company in any form and his/her employment relationship with the company ends. Regarding termination of a labor relationship, employers must pay attention to the following.

Resignation

Resignation is a worker's voluntary termination of his/her labor contract. Resignation is governed by the Civil Code because the Labor Standards Act has no provision for resignation. Under the Civil Code, resignation becomes effective in two weeks from the date upon which the worker expresses his/her intention to resign (Article 627 of the Civil Code). However, a worker whose wages are fixed for a certain period, such as workers receiving monthly wages, may not resign until the end of the current period and must express his/her intention to resign in the first half of the current period (Article 627, paragraph (2) of the Civil Code).

(e.g.) If a worker who works for monthly wages during a period from the first day to the last day of the month wants to resign on September 30, the worker must express his/her intention to resign no later than September 15.

Mandatory retirement

A mandatory retirement system is a system in which a labor contract is automatically terminated when the worker reaches a certain age.

In cases where employers set the retirement age of their workers, such retirement age shall not be lower than 60 (Article 8 of the Act on Stabilization of Employment of Elderly Persons). In cases where an employer sets the retirement age below 65 years old, the employer must take any of the following measures to secure stable employment for their workers until the age of 65.

[i] Raising of mandatory retirement age up to 65;

[ii] Introduction of a continuous employment system (referring to a system of continuing to employ all elderly persons currently employed after the mandatory retirement age until they become 65 years of age, if they wish to be employed);

[iii] Abolition of the mandatory retirement age (Article 9 of the Act on Stabilization of Employment of Elderly Persons).

Additionally, an employer who sets the retirement age below 70 or who adopts a system of continuous employment up to the age below 70 must make efforts to take any of the following measures to secure workers' employment opportunities until the age of 70:

[i] Raising of mandatory retirement age up to 70 years of age;

[ii] Introduction of a continuous employment system up to 70 years of age (including continuous employment by another employer);

[iii] Abolition of the mandatory retirement age;

[iv] Introduction of a system to conclude a business consignment contract with workers continuously until the age of 70;

[v] Introduction of a system to enable workers to engage in social contribution businesses continuously until the age of 70 (Article 10-2 of the Act on Stabilization of Employment of Elderly Persons).

Dismissal

Dismissal is an employer's one-sided termination of a labor contract.

* Grounds for dismissal must be specified in the rules of employment.

I. Resignation

Regarding resignation, or termination of a labor contract based on a worker's expression of his/her intention to resign, the Labor Standards Act provides no particular restrictions. However, under the Civil Code, resignation becomes effective in two weeks from the date upon which the worker expresses his/her intention to resign (Article 627, paragraph (1) of the Civil Code). Nevertheless, a worker whose wages are fixed for a certain period, such as workers receiving monthly wages, may not resign until the end of the current period and must express his/her intention to resign in the first half of the current period. For example, a worker whose wages are decided based on a calendar month must express his/her intention to resign no later than September 15 in order to resign on October 1, and the period is not necessarily two weeks (Article 627, paragraph (2) of the Civil Code).

If the rules of employment contain provisions concerning applications for resignation, workers must apply for resignation as provided in the rules of employment, irrespective of the provisions of the Civil Code.

II. Dismissal

Effect of dismissal

○ **Open-ended labor contract**

Article 16 of the Labor Contracts Act provides that a dismissal be treated as an abuse of right and be void if it lacks objectively reasonable grounds and is not considered to be appropriate in general social terms.

○ **Fixed-term labor contract with a fixed term**

Article 17, paragraph (1) of the Labor Contracts Act provides that an employer may not dismiss a worker working under a fixed-term labor contract until the expiration of the term unless there are unavoidable circumstances.

Dismissal due to reorganization

Dismissal due to reorganization is dismissal intended for staff cutbacks by reason of deteriorating business conditions. As court precedents suggest, an employer who dismisses workers due to reorganization should negotiate with labor unions, give explanations to workers and carefully consider the following:

- Whether staff cutbacks are needed
- Whether the employer has made all possible efforts to avoid dismissal
- Whether the employer has selected workers to be dismissed according to objective and reasonable standards

・ Whether the process of dismissal is appropriate

* To avoid staff cutbacks, employers can shorten working hours (work sharing is one of the options).
* To avoid dismissal, employers can reassign or temporarily transfer workers or offer early retirement to workers.
* To make the process of dismissal appropriate, employers are required to consult with labor unions or to explain to workers about the dismissal.

Disciplinary dismissal

Disciplinary dismissal is dismissal of a worker as disciplinary action against the worker for his/her malicious violation of rules. Employers must specify the kinds, degrees and requirements of disciplinary dismissal in the rules of employment.

Ordinary dismissal

Ordinary dismissal is dismissal of a worker who cannot perform his/her duties. Court precedents suggest that ordinary dismissal can apply to the following workers:

・ Workers who show significantly poor work performance and are unlikely to improve despite guidance
・ Workers who are unlikely to return to work for a long time for health reasons
・ Workers who cause work-related difficulties due to a significant lack of cooperative spirit and are unlikely to improve

Statutory restrictions on dismissal

Laws prohibit dismissal in the following cases:

[i] Dismissal during a period of absence from work for injuries or diseases in the course of business or within 30 days thereafter (Article 19 of the Labor Standards Act)
[ii] Dismissal during a period of absence from work before and after childbirth or within 30 days thereafter (Article 19 of the Labor Standards Act)
[iii] Dismissal by reason of the nationality, creed or social status of a worker (Article 3 of the Labor Standards Act)
[iv] Dismissal by reason of a worker's refusal of the discretionary work system (Article 38-4, paragraph (1) of the Labor Standards Act)
[v] Dismissal by reason of giving a report to the Labour Standards Inspection Office (Article 104, paragraph (2) of the Labor Standards Act)
[vi] Dismissal by reason of being a member of a labor union or performing a justifiable act of a labor union or for other similar reasons (Article 7 of the Labor Union Act)
[vii] Dismissal by reason of a worker's request for dispute settlement assistance or conciliation under the Act on Employment Promotion etc. of Persons with Disabilities (Articles 74-6, paragraph (2) and 74-7, paragraph (2) of the Act on Employment Promotion etc. of Persons with Disabilities)
[viii] Dismissal on the basis of sex (Article 6 of the Equal Employment Opportunity Act)
[ix] Dismissal by reason of a female worker’s marriage, pregnancy, childbirth or absence from work before and after childbirth or for other similar reasons (Article 9 of the Equal Employment Opportunity Act)
[x] Dismissal by reason of a worker's request for dispute settlement assistance or conciliation under the Equal Employment Opportunity Act (Article 17, paragraph (2) and Article 18, paragraph (2) of the Equal Employment Opportunity Act)
[xi] Dismissal by reason of a worker's request for dispute settlement assistance or conciliation under the Labor Policies Comprehensive Promotion Act (Article 30-5, paragraph (2) and Article 30-6, paragraph (2) of the Labor Policies Comprehensive Promotion Act)
[xii] Dismissal by reason of a worker's consultation regarding harassment in the workplace (Article 11, paragraph (2) and Article 11-3, paragraph (2) of the Equal Employment Opportunity Act, Article 30-

2, paragraph (2) of the Labor Policies Comprehensive Promotion Act, and Article 25, paragraph (2) of the Child Care and Family Care Leave Act)

[xiii] Dismissal by reason of a worker's request for confirmation or application of special provisions concerning the insured elderly under the Employment Insurance Act (Article 73 of the Employment Insurance Act)

[xiv] Dismissal by reason of a worker's report of a violation to the Act for Securing the Proper Operation of Worker Dispatching Undertakings and Improved Working Conditions for Dispatched Workers (hereinafter referred to as the "Worker Dispatching Act") (Article 49-3, paragraph (2) of the Worker Dispatching Act)

[xv] Dismissal by reason of a worker's report of a violation to the Port Labor Act (Articles 49-3, paragraph (2) of the Worker Dispatching Act as applied by replacing the terms pursuant to Article 23 of the Port Labor Act)

[xvi] Dismissal by reason of a worker's report of a violation to the provision concerning businesses for securing employment opportunities for construction workers under the Act on the Improvement of Employment of Construction Workers (Article 49-3, paragraph (2) of the Worker Dispatching Act as applied by replacing the terms pursuant to Article 44 of the Act on the Improvement of Employment of Construction Workers)

[xvii] Dismissal by reason of a worker's request for or acquisition of child care leave or family care leave, etc. (Articles 10, 16, 16-4, 16-7, 16-10, 18-2, 20-2, Article 21, paragraph (2), and Article 23-2 of the Child Care and Family Care Leave Act)

[xviii] Dismissal by reason of a worker's request for dispute settlement assistance or conciliation for a dispute under the Child Care and Family Care Leave Act (Article 52-4, paragraph (2) and Article 52-5, paragraph (2) of the Child Care and Family Care Leave Act)

[xix] Dismissal by reason of a worker's request for explanations concerning the details of the difference in treatment from ordinary workers and the grounds thereof, etc. (Article 14, paragraph (3) of the Part-Time and Fixed-Term Workers Act)

[xx] Dismissal by reason of a worker's request for dispute settlement assistance or conciliation for a dispute under the Part-Time and Fixed-Term Workers Act (Article 24, paragraph (2) and Article 25, paragraph (2) of the Part-Time and Fixed-Term Workers Act)

[xxi] Dismissal by reason of a worker's request for assistance and application for mediation to the director of the Prefectural Labour Bureau in resolving an individual labor-related dispute (Article 4, paragraph (3) and Article 5, paragraph (2) of the Act on Promoting the Resolution of Individual Labor-Related Disputes)

[xxii] Dismissal by reason of whistleblowing (Article 3 of the Whistleblower Protection Act)

[xxiii] Dismissal by reason of a worker's acquisition of leave to execute the duties of a *saiban-in* (lay judge) or for other similar reasons (Article 100 of the Act on Criminal Trials with Participation of Saiban-in)

1. Procedures for Dismissal

The Labor Standards Act provides that an employer who intends to dismiss a worker must undertake certain procedures, such as providing advance notice (Article 20 of the Labor Standards Act).

(1) Advance notice of dismissal

When an employer intends to dismiss a worker, the employer must provide at least 30 days' advance notice (Article 20 of the Labor Standards Act).

For example, when intending to dismiss a worker on October 1 (to have the worker work until September 30), an employer must provide advance notice of dismissal on August 31. A notice needs to specify the date of dismissal concretely instead of using an ambiguous expression such as "30 days later."

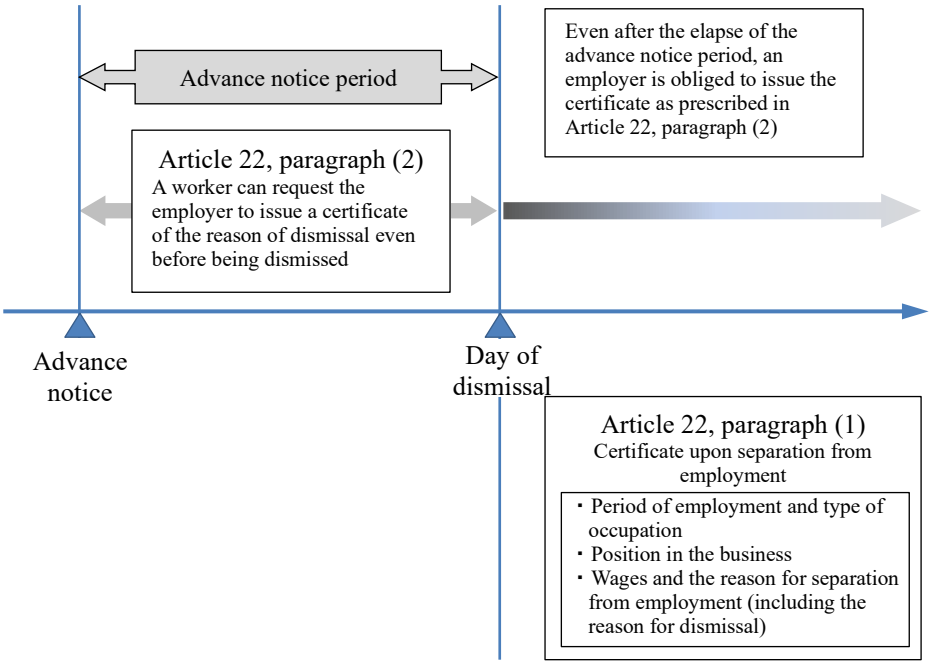
Verbal advance notice is also effective, but it is preferable to provide advance notice in writing also from the perspective of preventing future trouble.

(2) Clarification of the reason for dismissal

A worker who has received advance notice of dismissal may request the employer to issue a certificate in relation to the reason for said dismissal even before being dismissed (Article 22, paragraph (2) of the Labor Standards Act).

This provision is based on the idea that in order to prevent a dispute concerning dismissal and achieve prompt settlement, it is effective to clarify the issues in advance and substantially promote talks between labor and management concerning the reasonableness of the reason for dismissal by the day on which the dismissal becomes effective. Therefore, a worker who has received advance notice of dismissal is allowed to request the employer to issue a certificate describing the reason for dismissal, in addition to the conventional certificate to be issued upon separation from employment, even during a period from the day of receiving advance notice to the day of separation from employment. An employer who receives such request is required to issue the certificate as requested without delay.

Relationship between paragraph (1) and paragraph (2) of Article 22 of the Labor Standards Act



The reason for dismissal needs to be indicated concretely. In the case of dismissal due to the existence of a fact falling under any of the provisions of the rules of employment, etc., the details of the relevant provisions and the developments leading to that fact must be entered in the certificate (see Certificate of Reason for Dismissal (example) below).

< Certificate of Reason for Dismissal (example) >

To _____

We hereby certify the reason for the dismissal for which we provided advance notice dated MM/DD/YY.

MM/DD/YY

Name of the company:

Name of the employer:

[Reasons for Dismissal]*1, *2

1. Dismissal due to unavoidable circumstances such as natural disasters
(more specifically, it has become impossible to continue business due to)
2. Dismissal due to our operational needs such as downsizing
(more specifically, the company)
3. Dismissal due to your serious violation of an operational order
(more specifically, you)
4. Dismissal due to your misconduct related to work
(more specifically, you)
5. Dismissal due to your poor work attitude or performance
(more specifically, you)
6. Dismissal due to other reason
(more specifically,)

*1 Circle the applicable option and state the reason concretely in the parentheses.

*2 Workplaces subject to the obligation to establish rules of employment must state the applicable reason for dismissal provided in the rules of employment, irrespective of the example above.

(3) Allowance for dismissal without advance notice

When an employer does not provide advance notice of dismissal as mentioned in (1) above, the employer must pay the worker the average wage he/she would earn in working for a period of not less than 30 days (Article 20 of the Labor Standards Act).

If the advance notice period is less than 30 days, an employer must pay the average wage for the days in shortage. For example, when the advance notice period is only 20 days, an employer must pay the average wage for the 10 days shortage.

(4) Exclusion from application of obligation to provide advance notice, etc.

When an employer dismisses any of the following workers, provision of advance notice is not mandatory under the Labor Standards Act (Article 21 of the Labor Standards Act).

[i] Workers employed on a daily basis

[ii] Workers employed for a fixed period not longer than two months

[iii] Workers employed for seasonal work for a fixed period not longer than four months

[iv] Workers in a probationary period

However, when a worker falling under [i] is employed continuously for longer than one month, when a worker falling under [ii] or [iii] is employed continuously for longer than the fixed period, and when a worker falling under [iv] is employed continuously for longer than 14 days, an employer must provide advance notice of dismissal or pay an allowance for dismissal without advance notice.

(5) Cases where advance notice of dismissal is not required

A. In the event of a natural disaster or other unavoidable circumstances

If it becomes impossible to continue business due to a natural disaster or other unavoidable circumstances, an employer may dismiss workers without providing advance notice or paying the allowance by obtaining approval of the Director-General of the competent Labour Standards Inspection Office in advance (Article 20 of the Labor Standards Act).

B. When there are causes attributable to the worker

When there are any causes attributable to a worker that justify immediate dismissal, an employer may dismiss the relevant worker immediately without providing advance notice or paying the allowance by obtaining approval of the Director-General of the competent Labour Standards Inspection Office in advance.

Whether to grant this approval is judged on a case-by-case basis by comprehensively taking into account the relevant worker's status, responsibilities, the years of service, job performance and other factors.

In the case of punitive dismissal without obtaining approval, an employer must provide advance notice or pay an allowance for dismissal without advance notice as in the case of normal dismissal.

III. Termination of Labor Relationship upon Expiration of Labor Contract Term

1. Expiration of the Labor Contract Term

(1) Termination upon expiration of labor contract term

In principle, labor contracts must not be concluded for a period exceeding three years (Article 14, paragraph (1) of the Labor Standards Act).

When hiring a part-time worker by fixing a contract term, an employer needs to determine the term of a labor contract within this limit (see "Chapter 3: III. Term of Labor Contracts" for the term of labor contracts).

A labor contract with a fixed term is naturally terminated upon the expiration of that term without any manifestation of intentions from either side.

However, under such circumstances as where a labor contract with a fixed term has been repeatedly renewed and it is found that a worker has reasonable grounds to expect that he/she will be continuously employed under the same conditions even after the expiration of the contract term, or where a labor contract is considered to be substantially equivalent to a labor contract without a fixed term, if an employer intends to terminate the labor contract upon the expiration of the contract term (non-renewal of employment), the legal principle of non-renewal of employment mentioned in (2) below applies. In this case, the reason for non-renewal of employment must be objectively reasonable and appropriate in general social terms in the same manner as in the case of dismissal.

Incidentally, when renewing labor contracts upon the expiration of the contract term, it should be noted that any different treatment between men and women may fall under a violation to the Equal Employment Opportunity Act (Article 6, paragraph (4) of the Equal Employment Opportunity Act).

(2) Legal principle of non-renewal of employment (Article 19 of the Labor Contracts Act)

A labor contract with a fixed term is terminated upon the expiration of that term, but disputes often arise due to non-renewal of employment after repeated renewal of labor contracts. Therefore, it is necessary to clarify rules concerning renewal of fixed-term labor contracts in advance to prevent and settle disputes due to non-renewal of employment. Article 19 of the Labor Contracts Act, which was enforced on August 10, 2012, prescribes the legal principle of non-renewal of employment, which had been established through Supreme Court judgments, to dismiss non-renewal in certain cases and consider that the relevant fixed-term labor contract has been concluded or renewed.

Article 19, item (i) of the Labor Contracts Act prescribes the requirements presented in the Supreme Court Judgment rendered on the Toshiba Yanagimachi Factory Case (Judgment of the First Petty Bench of the Supreme Court on July 22, 1974), wherein the Supreme Court ruled that the legal principle of dismissal should be applied by analogy to a fixed-term labor contract that has been naturally renewed each time when the contract term expires and has substantially been equivalent to a labor contract without a fixed term. Item (ii) of the same Article prescribes the requirements presented in the Supreme Court Judgment rendered on the Hitachi Medico Case (Judgment of the First Petty Bench of the Supreme Court on December 4, 1986), wherein the Supreme Court ruled that it can be construed that the legal principle of dismissal may be applied

by analogy to a case where reasonableness can be found in a worker's expectation to be continuously employed after the expiration of his/her fixed-term labor contract.

Article 19 of the Labor Contracts Act provides that if non-renewal of employment is found to be equivalent to dismissal in general social terms as a result of repeated renewal of a fixed-term labor contract (item (i)) or if reasonable grounds can be found for a worker to expect that his/her fixed-term labor contract will be renewed upon the expiration thereof (item (ii)), and when non-renewal of employment by an employer lacks objectively reasonable grounds and is found inappropriate in general social terms, such non-renewal of employment cannot be admitted and it should be construed that the employer has agreed to the relevant worker's application for renewal or conclusion of a fixed-term labor contract under the same working conditions as stipulated in the former fixed-term labor contract and the fixed-term labor contract is to be established under the same working conditions (including the contract term).

Whether this legal principle of non-renewal of employment can be applied or not is to be judged on a case-by-case basis by comprehensively taking into account whether the relevant employment is temporary or regular, the number of times of contract renewal, total period of employment, status of management of the contract terms, whether an employer has suggested continuation of employment and other factors.

(3) System of conversion to an open-ended labor contract (Article 18 of the Labor Contracts Act)

Article 18, paragraph (1) of the Labor Contracts Act provides that if a worker whose total contract term of two or more fixed-term labor contracts concluded with the same employer (hereinafter referred to as the "total contract term") exceeds five years applies for the conclusion of a labor contract without a fixed term before the date of expiration of the currently effective fixed-term labor contract, it is deemed that the employer accepts said application, and that a labor contract without a fixed term to start providing labor from the day following the date of expiration of the currently effective fixed-term contract is to be established.

This system of conversion to an open-ended labor contract applies when a fixed-term labor contract that started on April 1, 2013, onward is renewed or otherwise continued over five years. If an employer intends to avoid the application of this system and sets waiver of the right to apply for conversion to an open-ended labor contract as conditions for contract renewal in advance, such act eventually forces workers, who are afraid of losing employment, to agree to the waiver of the right and undermines the purpose of Article 18 of the Labor Contracts Act. Forced manifestation of intention of fixed-term workers in this manner is against public policy and is considered to be void.

2. Expiration of Period of Administrative Leave

Administrative leave is a system under which when a worker cannot engage in work for a considerable period of time under his/her own circumstances such as private or public injury or disease or due to performing public duties, he/she is exempted from his/her obligation to engage in work while maintaining employment. This is adopted in many workplaces.

In some cases, rules of employment provide that a worker who cannot come back to work after the expiration of the period of administrative leave should resign. Such provision is generally construed to stipulate automatic termination of a labor contract as in the case of mandatory retirement. Therefore, in this case, an employer does not need to undertake procedures for dismissal, such as providing advance notice.

However, how to stipulate and operate a system concerning termination of a labor contract upon the expiration of the period of administrative leave varies by workplace, and the applicability needs to be judged in accordance with the circumstances.

IV. Termination of Labor Relationship upon Mandatory Retirement

The Act on Stabilization of Employment of Elderly Persons provides that if an employer fixes the mandatory retirement age for workers he/she employs, that age must not be below 60 years of age (Article 8), and the Equal Employment Opportunity Act prohibits discriminatory treatment on the basis of sex with regard to mandatory retirement age and dismissal (Article 6, paragraph (4)). Therefore, it is not permissible to set different mandatory retirement ages, such as 65 years of age for male workers and 60 years of age for female workers.

Additionally, an employer who sets the retirement age below 65 years of age must take measures for securing employment for elderly persons, such as (i) raising that retirement age up to 65 years of age, (ii) introducing a continuous employment system up to 65 years of age, or (iii) abolishing the mandatory retirement age, in order to secure stable employment of the elderly workers he/she employs until they reach 65 years of age (Article 9 of the Act on Stabilization of Employment of Elderly Persons).

Furthermore, an employer who sets the retirement age (limited to that over 65 but below 70 years of age) or who has introduced a continuous employment system up to the age below 70 must make efforts to take any of the measures of (i) raising the mandatory retirement age up to 70 years of age, (ii) introducing a continuous employment system up to 70 years of age, (iii) abolishing the mandatory retirement age, (iv) introducing a system to conclude a business consignment contract with workers continuously until the age of 70, or (v) introducing a system to enable workers to engage in social contribution businesses continuously until the age of 70, in order to secure job opportunities for the elderly workers he/she employs during the period when they are from 65 up to 70 years of age (Article 10-2 of the Act on Stabilization of Employment of Elderly Persons).

*** Outline of the measures for securing employment/job opportunities for elderly persons**

A. Obligation to take measures for securing employment for elderly persons

An employer who sets the retirement age below 65 years of age must take some of the following measures in order to secure stable employment of the elderly workers he/she employs until they reach 65 years of age.

[i] Raising of mandatory retirement age up to 65

[ii] Introduction of a continuous employment system (referring to a system of continuing to employ all elderly persons currently employed after the mandatory retirement age, if they wish to be employed; the same applies hereinafter) up to 65 of age

* Continuous employment by the company or a specially related employer (so-called group company)

[iii] Abolition of the mandatory retirement age

Employment patterns must not necessarily be in line with the workers' requests in terms of job types or working conditions. Various patterns including a short-hour work system or an alternate-day shift, not limited to regular employment, are permissible if they meet the purpose of the system.

B. Setting of eligibility criteria for a continuous employment system (measures for securing employment for elderly persons)

Formerly, it was permitted to limit eligible elderly workers when introducing a continuous employment system set forth in A.[ii] above by concluding a labor-management agreement. However, such eligibility criteria were basically abolished on April 1, 2013, onward and an employer who introduces a continuous employment system needs to put in place a system covering all workers who wish to be employed continuously.

However, as transitional measures, if eligibility criteria for a continuous employment system had been established under a labor-management agreement by March 31, 2013, those criteria may be continuously applied until March 31, 2025 only to persons over the ages of those starting to receive the proportionate payment of employees' pension benefits (this does not apply when a labor-management agreement was newly concluded in April 2013 onward).

(Reference) Eligible ages for proportionate payment of employees' pension benefits

From April 1, 2013, to March 31, 2016	61 years of age
From April 1, 2016, to March 31, 2019	62 years of age
From April 1, 2019, to March 31, 2022	63 years of age
From April 1, 2022, to March 31, 2025	64 years of age

C. Obligation to make efforts to take measures for securing job opportunities for elderly persons

An employer who sets the retirement age (limited to that over 65 but below 70 years of age) or who has introduced a continuous employment system up to the age below 70 must make efforts to take any of the following measures in order to secure job opportunities for the elderly workers he/she employs during the period when they are from 65 up to 70 years of age.

[i] Raising of the mandatory retirement age up to 70 years of age

[ii] Introduction of a continuous employment system up to 70 years of age

* Continuous employment by the company or a specially related employer or by any other company

[iii] Abolition of the mandatory retirement age

[iv] Introduction of a system to conclude a business consignment contract with workers continuously until the age of 70

[v] Introduction of a system to enable workers to engage in social contribution businesses (limited to businesses conducted by the employer or a body to which the employer entrusted or made contributions (provision of funds), etc.) continuously until the age of 70

* Limited to employment for compensation (elderly persons are paid for engaging in duties)

Which of these measures is to be taken should be decided through sufficient consultations between labor and management and it is preferable that measures are taken in accordance with the needs of elderly persons.

D. Setting of eligibility criteria for a continuous employment system (measures for securing job opportunities for elderly persons)

Regarding a continuous employment system up to 70 years of age set forth in C.[ii] above, an employer is obliged to make efforts for the introduction. Accordingly, an employer may set eligibility criteria for a system for workers aged 65 or older to limit the coverage. When setting eligibility criteria for a continuous employment system for workers aged 65 or older, details should preferably be determined in accordance with the circumstances of individual companies through sufficient consultations between labor and management.

However, even if eligibility criteria have been set through sufficient consultations between labor and management, if the criteria are against the purport of the Act on Stabilization of Employment of Elderly Persons or other labor-related laws and regulations, such as exhibiting an employer's arbitrary intention to exclude elderly persons, or the criteria are contrary to public policy, such criteria are not admitted.

E. Measures to support start-ups, etc.

The measures set forth in C.[iv] and [v] above are measures not through employment and these are collectively referred to as measures to support start-ups, etc.

When taking measures to support start-ups, etc., labor-related laws and regulations are not applied apart from measures through employment. Therefore, the following procedures (1) to (3) need to be undertaken.

(1) Prepare a plan concerning the implementation of the measures to support start-ups, etc. (details of the duties and compensation to be paid to elderly persons, etc.).

(2) Obtain consent regarding the plan mentioned in (1) from the labor union consisting of a majority of the workers.

(3) Disseminate the plan for which the consent mentioned in (2) was obtained broadly among workers.

After introducing a system through the procedures (1) to (3), the employer needs to conclude a business consignment contract or a contract for the engagement in social contribution businesses with each of the elderly persons in line with the relevant plan.

F. Cases where reasons for dismissal exist

Health conditions of elderly persons vary by individuals and some may be considered to be unsuitable for continuing employment based on the status of their past engagement in work. Accordingly, the Guidelines concerning the implementation and operation of the measures for securing employment/job opportunities for elderly persons permit employers not to continue employment of an elderly worker if the worker is found unable to work due to physical or mental disorder or if the worker's

work attitude has been extremely bad and thus will not be able to fulfil duties as an employee, or otherwise reasons for dismissal or resignation (excluding those relating to age) specified in the rules of employment are found.

< Example of rules concerning retirement age, etc.>

A case where the mandatory retirement age is 60 years of age and the eligibility criteria for continuous employment thereafter are established as transitional measures (IV. A.[ii] and B.)

Article ○○

Mandatory retirement age is 60 years of age and employees are to retire as of the last day of the month in which they reach 60 years of age.

1. Notwithstanding the provisions of the preceding paragraph, regarding a person who wishes to be continuously employed after mandatory retirement and to whom none of the reasons for dismissal or resignation applies, if the person satisfies all of the criteria set forth in the following items (hereinafter simply referred to as the "criteria"), the person is to be continuously employed until the age of 65, and if the person does not satisfy any of the criteria, the person is to be continuously employed until the age specified under the criteria, as provided for by a labor-management agreement based on Article 9, paragraph (2) of the Act on Stabilization of Employment of Elderly Persons prior to the amendment that is to remain in force pursuant to paragraph (3) of the Supplementary Provisions of the Act for Partially Amending the Act on Stabilization of Employment of Elderly Persons (Act No. 78 of 2012):
   (1) A person whose personnel evaluation has been above ○○ for the past ○ years
   (2) A person whose attendance rate has been above ○% for the past ○ years
   (3) A person who is judged to have no problem in pursuing duties by an industrial physician based on the results of the medical examinations for the past ○ years
2. In the case referred to in the preceding paragraph, the criteria during the period set forth in the left-hand column of the following table are to be applied to persons of age above the age respectively set forth in the right-hand column of the table, in accordance with the category set forth in the left-hand column of the table
   .

From April 1, 2013, to March 31, 2016	61 years of age
From April 1, 2016, to March 31, 2019	62 years of age
From April 1, 2019, to March 31, 2022	63 years of age
From April 1, 2022, to March 31, 2025	64 years of age

V. Procedures upon Termination of Labor Relationship

1. Payment of Wages and Return of Money and Goods

In the event of a worker's death or separation from employment (including dismissal), if a right holder requests, an employer is required to, within seven days, pay the wages and return the reserve funds, security deposits, savings, and any other money and goods to which the worker is rightfully entitled, regardless of the name by which such money and goods may be called (Article 23 of the Labor Standards Act).

When a worker has separated from employment, the right holder is the worker him/herself. When a worker has died, the right holder is the heir(s) to the worker's estate (or when the rules of retirement allowances specify any recipient of retirement allowances separately from the heir(s) in the case of a worker's death, that recipient) and general creditors are not included.

When the rules of retirement allowances or other documents specify the payment date, an employer may pay retirement allowances as specified in those rules.

2. Certificate upon Separation from Employment, etc.

If a worker requests, upon separation from employment, a certificate regarding the period of employment, the type of occupation, the position in the business, wages, and the reason for separation from employment (in the case of dismissal, including the reason for dismissal), an employer is required to issue such a certificate to the worker without delay (Article 22, paragraph (1) of the Labor Standards Act; See the model form on p.157).

An employer must not state any matters not requested by a worker or secret marks in this certificate.

3. Payment of Travel Expenses for Returning Home

When the working conditions clearly indicated upon concluding a labor contract differ from actual fact and a worker who has changed his/her residence for the purpose of work returns home within 14 days from the date of contract cancellation (Article 15 of the Labor Standards Act), or when a minor was dismissed (excluding the case of dismissal attributable to a worker as approved by the Director-General of the competent Labour Standards Inspection Office) and returns home within 14 days from dismissal (Article 64 of the Labor Standards Act), the employer must bear the necessary travel expenses on behalf of the worker.

4. Preservation of Records

An employer needs to prepare rosters of workers, enter the date and grounds for dismissal or separation from employment or the date and causes of death, and preserve them for five years (for three years for the time being). Additionally, an employer must preserve wage ledgers and other important documents concerning labor relationships for five years (for three years for the time being) (Article 109 of the Labor Standards Act).

Form No.19 (Re. Article 53)

Roster of Workers

<table>
<tr><td>Gender</td><td>Name</td><td>○ ○　○ ○</td><td rowspan="2">Type of work</td><td rowspan="2">Designing of information processing systems</td><td>Address</td><td>1-1-1, ○ -cho, ○ -City</td></tr>
<tr><td></td><td>Date of birth</td><td>MM/DD/YY</td><td>Employed on</td><td>MM/DD/YY</td></tr>
<tr><td rowspan="2">Separation

or

Death</td><td>Date</td><td colspan="5">MM/DD/YY</td></tr>
<tr><td>Grounds (including the reason for dismissal in the case of dismissal)</td><td colspan="5">Dismissal under the provisions on dismissal in the rules of employment (Article ○ , paragraph ○ : Downsizing, suspension of business or other unavoidable circumstances in the business) as the company needs to downsize its business due to decreased orders as a result of a bankruptcy of a client or for other reasons</td></tr>
<tr><td colspan="2">Career</td><td colspan="5">Entered on MM/DD/YY
Assigned to the Designing Division,　○ ○ Plant
Withdrawn from the company on MM/DD/YY</td></tr>
</table>

Retirement Certificate

Mr./Ms. _____

We hereby certify that you have retired as of _____ for the reason stated below.

Date:

Name of Business Operator:
Name of Employer:

(1) Voluntary retirement (excluding case (2))
(2) Retirement upon our encouragement
(3) Mandatory retirement
(4) Retirement upon expiration of employment contract
(5) Retirement by reason of transfer or secondment
(6) Retirement for other reason (more specifically,)
(7) Dismissal (for the reason stated in the appendix)

* Circle the applicable number.
* If the worker dismissed does not request a reason for dismissal, cross out (7) "(for the reason stated in the appendix)" with double lines and do not deliver the appendix to the worker.

Appendix

a. Dismissal due to unavoidable circumstances such as natural disasters (more specifically, has made it impossible for us to continue our business operations)

b. Dismissal due to our operational needs such as downsizing (more specifically, we)

c. Dismissal due to your serious violation of an operational order (more specifically, you)

d. Dismissal due to your misconduct related to work (more specifically, you)

e. Dismissal due to your poor work attitude, such as absence from work without permission for a long time (more specifically, you)

f. Dismissal for other reason (more specifically,)

* Circle the applicable letter and detail the reason in the parentheses.

Chapter 14: Rules of Employment

I. Significance and Effects of Rules of Employment

If workers behave selfishly during working hours or take leave without permission, the workplace becomes disorganized and smooth operation of business is hindered.

On the contrary, if it is not clear for workers when they can take days off or in what occasion disciplinary actions are imposed, they cannot work with peace of mind.

Therefore, by establishing disciplinary rules and clarifying working conditions in advance, an employer can develop an environment wherein workers can work without worries and can also ensure smooth business operation.

Rules of employment are to be drawn up to specify disciplinary rules and working conditions for achieving these goals.

Rules of employment are beneficial on the part of an employer in that

[i] they help maintain workplace order and achieve business operation integrating a number of workers,

[ii] they make it possible to handle workers' working conditions uniformly and stabilize working conditions and business management, and

[iii] they prevent disputes caused by uncertainness in rights and obligations of labor and management.

On the other hand, rules of employment are also beneficial on the part of workers in that

[i] they clarify working conditions in the workplace and enable workers to work without worries,

[ii] they clarify rules to be observed in the workplace, and

[iii] they clarify grounds for disciplinary actions and free workers from risks of receiving arbitrary punishments.

II. Obligation to Draw up Rules of Employment

An employer who regularly employs 10 or more workers is required to draw up rules of employment and submit those rules of employment to the Director-General of the competent Labour Standards Inspection Office together with a statement of opinions of a representative of the workers (Article 89 of the Labor Standards Act). When an employer alters the content of established rules of employment, the employer also needs to submit the altered rules of employment to the Director-General of the competent Labour Standards Inspection Office together with a statement of opinions of a representative of the workers.

An employer who regularly employs less than 10 workers should also preferably draw up rules of employment.

Workers include not only full-time workers but also part-time workers and fixed-term workers. If the number of regularly employed workers, including part-time workers and fixed-term workers, exceeds 10, an employer is obliged to draw up rules of employment that are applied to all its employees. When it would be better to draw up rules of employment separately for part-time workers and fixed-term workers in consideration of their working status, an employer may draw up rules of employment for ordinary workers and for part-time

workers and fixed-term workers, respectively. In such case as well, those rules of employment drawn up separately must be submitted to the Director-General of the competent Labour Standards Inspection Office.

III. Matters to be Decided in Rules of Employment

Regarding rules of employment, matters that must be stated without fail ([i] indispensable information) and matters required if certain provisions are made ([ii] relatively necessary information) are specified (Article 89 of the Labor Standards Act). Rules may be draw up separately for each matter.

Concrete matters are explained below.

1. Indispensable Information

Matters that must be stated without fail are as follows.

[i] Matters pertaining to starting and finishing times, rest periods, days off, leave, and shifts in cases in which workers work in two or more shifts (including child care leave and family care leave under the Child Care and Family Care Leave Act)

[ii] Matters pertaining to methods of determining, calculating and paying wages (excluding special wages), dates for closing accounts for wages and increases in wages

[iii] Matters pertaining to retirement (including grounds for dismissal)

2. Matters Required if Certain Provisions are Made

Matters that must be stated if certain provisions are made are as follows.

[i] If provisions for retirement allowances are made, matters pertaining to the scope of workers covered, methods of determining, calculating and paying retirement allowances and the dates for payment of retirement allowances

[ii] If provisions for special wages (excluding retirement allowances) and minimum wages are made, matters pertaining thereto

[iii] If provisions for meal expenses, work supply expenses and other expenses to be borne by workers are made, matters pertaining thereto

[iv] If provisions for safety and health are made, matters pertaining thereto

[v] If provisions for vocational training are made, matters pertaining thereto

[vi] If provisions for accident compensation and support for off -the-job injuries and diseases are made, matters pertaining thereto

[vii] If provisions for commendation and sanctions are made, matters pertaining to their kind and degree

[viii] If other provisions that apply to all the workers of the workplace are made, information concerning the provisions

3. Relationship with Laws and Regulations and Collective Agreements

Rules of employment that infringe any laws and regulations or any collective agreement applicable to the workplace concerned are invalid (Article 92 of the Labor Standards Act).

If rules of employment infringe laws and regulations or collective agreements, the Director-General of the competent Labour Standards Inspection Office may order the alteration thereof.

Additionally, a labor contract that stipulates any working conditions that do not meet the standards established by the rules of employment is invalid with regard to such portions, and the portions which have become invalid are governed by the standards established by the rules of employment (Article 12 of the Labor Contracts Act).

IV. Hearing of the Opinions from a Representative of Workers

Rules of employment are drawn up by an employer for the purpose of clarifying working conditions and establishing discipline in the workplace. The authority to draw up or alter rules of employment is vested in employers.

However, the Labor Standards Act requires an employer to ask opinions of a representative of the workers when drawing up or altering rules of employment so that workers can have opportunities to be involved in those processes (Article 90 of the Labor Standards Act).

A representative of the workers here means

[i] a labor union organized by the majority of the workers, or

[ii] a person representing the majority of the workers if the workplace has no labor union or a labor union is not organized by the majority of the workers.

A person representing the majority of the workers mentioned in [ii] above must satisfy the following requirements (Article 6-2 of the Regulation for Enforcement of the Labor Standards Act).

- The person is not in positions of supervision or management (such person as prescribed in Article 41, item (ii) of the Labor Standards Act).
- The person has been selected through voting or a show of hands, etc. for the purpose clarified in advance, i.e., the selection of a person from whom the opinions are heard upon drawing up or altering rules of employment, and has not been selected based on the employer's intention.

Incidentally, when drawing up or altering rules of employment applicable to part-time workers, an employer is required to make efforts to hear the opinions of a person representing the majority of the part-time workers, and when drawing up or altering rules of employment applicable to fixed-term workers, an employer is required to make efforts to hear the opinions of a person representing the majority of the fixed-term workers (Article 7 of the Part-Time and Fixed-Term Workers Act).

An employer is not legally bound by collected opinions but should respect them as working conditions should principally be decided on an equal standing of labor and management.

V. Dissemination of Rules of Employment among Workers

Rules of employment must be made known to workers by any of the following methods (Article 106 of the Labor Standards Act and Article 52-2 of the Regulation for Enforcement of the Labor Standards Act).

[i] Posting or keeping the rules of employment in an easily visible location at each workplace at all times

[ii] Delivering the rules of employment to workers

[iii] Recording the rules of employment on magnetic tapes, magnetic disks or other equivalent forms of media and install a device in each workplace to enable workers to have access to them at all times

VI. Alteration of Rules of Employment

Undertaking procedures for drawing up or altering rules of employment is the obligation of employers ("II. Obligation to Draw up Rules of Employment").

As prescribed in Articles 89 and 90 of the Labor Standards Act, an employer should hear the opinions of the workers (a majority union or a representative of the majority of the workers) when altering rules of employment and should make alterations based on his/her own responsibility.

Rules of employment are often altered when working conditions are changed, and in the case of working conditions change disadvantageous to workers, in particular, the validity of the alteration is apt to be disputed.

Regarding this point, see "Chapter 3: Labor Contracts."

Notification of (Changes to) Rules of Employment

Date

Director-General ____ Labour Standards Inspection Office

As we have established/changed our rules of employment as described in the attachment, we hereby submit the rules of employment to you with a statement of opinions.

Major Changes

Article	Before Revision	After Revision

Labor Insurance Number	Prefecture	Competent body	Jurisdiction	Base No.	Branch No.	Collective business No.
Name of Workplace						
Address				TEL		
Name of Employer						
Type of Business/Number of Workers			Company as a whole people Workplace people			

If you have changed the company name, also enter the former name. If you have changed the address, also enter the former address.

Statement of Opinions

Date

Mr./Ms.

This statement sets out our opinions about the proposed rules of employment, such opinions having been requested on

Name of the labor union or the representative of a majority of all the workers Procedures to elect the representative of a majority of all the workers (	Title Name)

Chapter 15: Part-Time and Fixed-Term Workers

I. Responsibility of Employers under the Part-Time and Fixed-Term Workers Act

The Part-Time and Fixed-Term Workers Act requires an employer to make efforts as his/her responsibility to ensure the treatment of part-time and fixed-term workers he/she employs that is balanced with the treatment of ordinary workers he/she employs, as well as to take other measures to enable those part-time and fixed-term workers to effectively exercise their abilities, in consideration of their employment situations etc., by means of taking such measures as [i] ensuring proper working conditions, [ii] providing them with education and training, [iii] enriching a welfare program, [iv] otherwise improving employment management, and [v] promoting their shift to becoming ordinary workers (Article 3 of the Part-Time and Fixed-Term Workers Act). The Part-Time and Fixed-Term Workers Act was put into effect on April 1, 2020, and fixed-term workers came to be also covered by the law. Accordingly, the content of I to XVII of this Chapter also apply to fixed-term workers.

In addition to what are provided for in the Part-Time and Fixed-Term Workers Act, measures that must be taken by employers for improving employment management for part-time and fixed-term workers are indicated in the "Guidelines Concerning Measures to be Taken by Employers for Improving Employment Management for Part-Time and Fixed-Term Workers (Public Notice of the Ministry of Health, Labour and Welfare No.326 of 2007; hereinafter referred to as the "Guidelines Concerning Part-Time and Fixed-Term Workers").

* Ordinary workers refer to workers judged as ordinary workers by the relevant employer as of the time of the comparison in light of social norms. Specifically, this term means so-called regular workers and full-time workers who have concluded a labor contract without a fixed term with an employer (full-time workers employed without a fixed term).

II. Part-Time and Fixed-Term Workers

A part-time worker is defined as "a worker whose regular weekly working hours are shorter than those of ordinary workers employed at the same workplace," while a fixed-term worker refers to a worker who has concluded a fixed-term labor contract with an employer (Article 2 of the Part-Time and Fixed-Term Workers Act). Part-timers, junior employees, temporary workers, contract workers, contracted workers, etc., irrespective of their names, all are covered under the Part-Time and Fixed-Term Workers Act if they fit with this definition.

III. Clear Indication of Working Conditions upon Hiring

When hiring workers, an employer needs to clearly indicate wages, working hours and other working conditions (Article 15 of the Labor Standards Act), and this provision applies to all workers including part-time workers and fixed-term workers. Regarding clarification of working conditions, see "V. Clear Indication of Working Conditions" in "Chapter 3: Labor Contracts."

In addition to the abovementioned information for ordinary workers, the Part-Time and Fixed-Term Workers Act requires an employer to clearly indicate the following when hiring part-time or fixed-term workers (Article 6 of the Part-Time and Fixed-Term Workers Act and Article 2, paragraph (1) of the Regulation for Enforcement of the Part-Time and Fixed-Term Workers Act).

[i] Whether wages are increased or not

[ii] Whether retirement allowances are paid or not

[iii] Whether bonuses are granted or not

[iv] Consultation service related to improvement, etc. of employment management of part-time and fixed-term workers

These matters need to be clearly indicated in writing, but if a part-time or fixed-term worker requests, they may be informed by e-mail or FAX or other methods of sending telecommunications used for transmitting information by specifying the recipient (meaning the telecommunications prescribed in Article 2, item (i) of the Telecommunications Business Act (Act No. 86 of 1984); hereinafter referred to as "e-mail, etc.") (limited to the methods that enable the relevant part-time or fixed-term worker to prepare a document by outputting the record contained in the relevant e-mail, etc.) (Article 2, paragraph (3) of the Regulation for Enforcement of the Part-Time and Fixed-Term Workers Act).

IV. Rules of Employment for Part-Time and Fixed-Term Workers

An employer who regularly employs 10 or more workers is required to draw up rules of employment and submit those rules of employment to the Director-General of the competent Labour Standards Inspection Office (Article 89 of the Labor Standards Act). When an employer employs part-time or fixed-term workers, rules of employment must be those also applicable to them. If ordinary rules of employment already established exclude part-time and fixed-term workers, an employer needs to newly draw up rules of employment applicable to part-time and fixed-term workers.

Article 90 of the Labor Standards Act requires an employer to hear the opinions of a representative of the majority of the workers in the workplace when drawing up or altering rules of employment, while Article 7 of the Part-Time and Fixed-Term Workers Act requires an employer to make efforts to hear the opinions of a representative of the majority of the part-time workers in the workplace when drawing up or altering rules of employment regarding matters concerning part-time workers, and also to make efforts to hear the opinions of a representative of the majority of the fixed-term workers in the workplace when drawing up or altering rules of employment regarding matters concerning fixed-term workers.

V. Working Hours, Days Off and Rest Periods

Part-time and fixed-term workers often have constraints due to family life and prioritize shorter working hours, fewer working days or freedom to choose working days or hours depending on their personal circumstances.

Therefore, the Guidelines Concerning Part-Time and Fixed-Term Workers recommend employers to give due consideration to circumstances of individual part-time and fixed-term workers when deciding or changing their working hours or working days and make efforts not to have them work in excess of regular working hours or on days other than their regular working days.

Provisions concerning working hours, days off, premium wages for overtime work and work on days off, and rest periods, etc. naturally apply to part-time and fixed-term workers as in the case of ordinary workers.

VI. Annual Paid Leave for Part-Time and Fixed-Term Workers

An employer must grant annual paid leave of the prescribed number of days to all workers. Also, with regard to part-time and fixed-term workers, an employer must grant annual paid leave in accordance with the number of their regular working days (Article 39 of the Labor Standards Act; "III. Annual Paid Leave" of "Chapter 5: Rest Periods, Days Off and Leave, etc.").

There are often cases where non-regular workers are not given annual paid leave, but it should be noted that non-regular workers also have rights to get annual paid leave.

Additionally, part-time and fixed-term workers working for a fixed term also come to obtain rights to get annual paid leave if they work continuously for six months or longer by repeating or renewing their contracts.

VII. Labor Contract Term

In principle, labor contracts must not be concluded for a period exceeding three years (or for a period exceeding five years in the case of a contract with a worker aged 60 years or older) ("III. Term of Labor Contracts" in "Chapter 3: Labor Contracts"). A part-time worker employed by fixing a certain term is covered under regulations on fixed-term labor contracts.

With regard to a fixed-term labor contract, an employer must give consideration to not renewing such labor contract repeatedly as a result of prescribing a term that is shorter than necessary in light of the purpose of employing the worker based on such labor contract (Article 17, paragraph (2) of the Labor Contracts Act).

VIII. Prohibition of Unreasonable Treatment

An employer must not set a difference in basic wages, bonuses and other treatment between ordinary workers and part-time and fixed-term workers he/she employs that is found unreasonable in consideration of such matters as the content of the duties and levels of accompanying responsibility (hereinafter referred to as "job descriptions") of all workers, the scope of changes in job descriptions and job assignment, and other

circumstances that are considered appropriate to take into account in light of the nature and the purpose of the relevant treatment (Article 8 of the Part-Time and Fixed-Term Workers Act).

Any difference in treatment in violation of Article 8 of the Part-Time and Fixed-Term Workers Act is illegal and compensation for damage may be sought.

The Guidelines have been established to present the basic idea and concrete examples concerning what difference in treatment is unreasonable and what difference is not (referred to as the "Guidelines Concerning Unreasonable Treatment" in X. below).

IX. Prohibition of Discriminatory Treatment

With regard to part-time and fixed-term workers whose job descriptions and scope of changes in job descriptions and job assignment (personnel utilization system and operation thereof, etc.) are the same as those of ordinary workers, Article 9 of the Part-Time and Fixed-Term Workers Act prohibits any discriminatory treatment in terms of basic wages, bonuses, etc. by reason of being part-time or fixed-term workers.

X. Method of Deciding Wages

With regard to part-time and fixed-term workers covered by the provisions prohibiting discriminatory treatment, an employer is required to take such measures as applying the same wage scale as ordinary workers or unifying standards for payroll and personnel evaluation criteria.

For other part-time and fixed-term workers, an employer should make efforts to decide job duty-related wages (basic wages, bonuses and executive allowances) in consideration of their job descriptions, performance, motivation, ability, experience and other matters concerning the actual status of their work, while taking into account a balance with ordinary workers (Article 10 of the Part-Time and Fixed-Term Workers Act).

* Wages should be decided at each business office depending on individuals' job descriptions and responsibilities or in accordance with respective circumstances by developing appropriate promotion systems or personnel evaluation systems, instead of based on employers' subjective views or in a single uniform way (such as introducing a uniform hourly wage).

  * This Article does not apply to payable wages, such as commutation allowances, family allowances, housing allowances, separation allowances, child education allowances, or other allowances, irrespective of their names. Regarding such allowances paid closely related to the content of the duties (such as commutation allowances substantially paid as part of the basic wage at the same amount irrespective of distance or actual expenses), an employer needs to make efforts to decide the amounts in consideration of job descriptions, performance, motivation, ability, experience, etc. of part-time and fixed-term workers, while taking into account a balance with ordinary workers.

XI. Education and Training, and Welfare Facilities

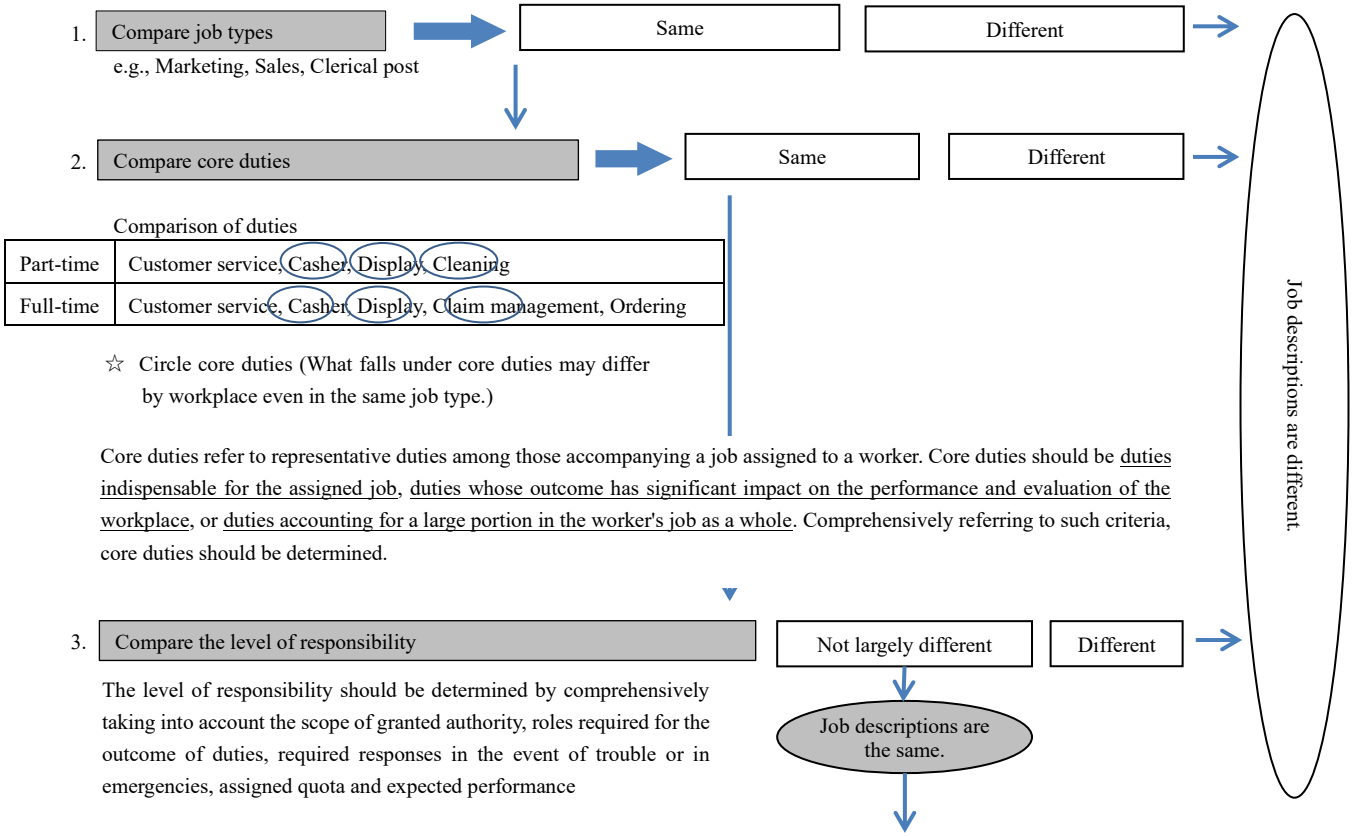
Regarding part-time and fixed-term workers equivalent to ordinary workers, discriminatory treatment in comparison to ordinary workers is prohibited in terms of all treatment. For part-time and fixed-term workers who perform the same duties as ordinary workers, an employer is required to provide them with education and training in the same manner as ordinary workers to have them acquire knowledge and skills necessary for performing those duties, except for a case where part-time and fixed-term workers already have the required abilities (Article 11, paragraph (1) of the Part-Time and Fixed-Term Workers Act). For other part-time and fixed-term workers, an employer is required to make efforts to provide them with education and training in accordance with their job descriptions, performance, motivation, ability, experience and other matters concerning the actual status of their work, while taking into account a balance with ordinary workers (Article 11, paragraph (2) of the Part-Time and Fixed-Term Workers Act).

With regard to a welfare program, an employer is required to also provide part-time and fixed-term workers with chances to use welfare facilities (a company cafeteria, resting rooms and locker rooms) in the same manner as ordinary workers (Article 12 of the Part-Time and Fixed-Term Workers Act). In a case where a company cafeteria is too small to be used by all workers, for example, an employer is not required to ensure the availability to all workers by such means as building an extension. However, an employer is required to apply the same rules on use to all workers, extend service hours or otherwise endeavor to ensure that all part-time and fixed-term workers can also use the company cafeteria.

When applying provisions of the Part-Time and Fixed-Term Workers Act, the key is to make a proper judgment concerning whether job descriptions and the scope of changes in job descriptions and job assignment (personnel utilization system and operation thereof, etc.) are the same between ordinary workers and part-time and fixed-term workers. Refer to the following figures for the judgment.

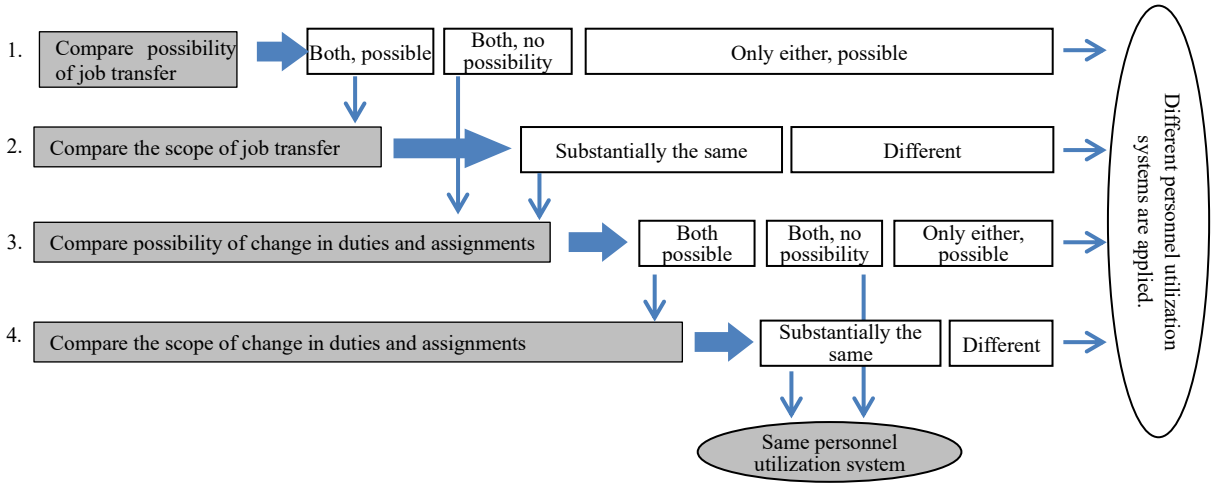
Whether job descriptions are the same

Job descriptions refer to the content of the duties and the level of accompanying responsibilities. A judgment should be made by the following procedures.



Whether the application and operation of the personnel utilization system are the same

Whether the application and operation of the personnel utilization system are same or not should be judged by the following procedures.



XII. Explanations of the Details of the Measures Taken by an Employer

When hiring a part-time or fixed-term worker, an employer must immediately provide the worker with explanations on the details of the measures concerning the employment management improvement he/she takes (Article 14, paragraph (1) of the Part-Time and Fixed-Term Workers Act).

[Examples of explanations upon hiring]

- Details of the wage system
- Details of the education and training
- Availability of welfare facilities
- Whether measures to promote a shift to becoming regular workers are taken, etc.

When a part-time or fixed term worker requests explanations, an employer must explain the details of the difference in treatment compared with ordinary workers that he/she considers the closest to the relevant worker in terms of job descriptions, etc. and the reason therefor, etc. (Article 14, paragraph (2) of the Part-Time and Fixed-Term Workers Act).

[Examples of explanations when requested]

- Whether there is any difference between ordinary workers for comparison and part-time and fixed-term workers in the criteria for deciding treatment, what difference if any, and why there is such difference
- What was taken into consideration when providing education and training or permitting the use of welfare facilities for part-time and fixed-term workers
- What was taken into consideration when deciding measures to promote a shift to becoming regular workers, etc.

These explanations should be basically provided orally while using reference materials (Guidelines Concerning Part-Time and Fixed-Term Workers). Article 14, paragraph (3) of the Part-Time and Fixed-Term Workers Act prohibits employers from dismissing or discriminately treating a part-time or fixed-term worker by reason of his/her request for explanations.

XIII. Medical Examinations

An employer needs to conduct medical examinations (upon hiring and regular examinations) also for part-time and fixed-term workers who fall under regularly employed workers (Article 66 of the Industry Safety and Health Act).

Regularly employed part-time workers here refer to workers who satisfy both of (1) and (2) below.

(1) The person is employed under a labor contract without a fixed term (including a person employed under a labor contract with a fixed term who is scheduled to be employed for one year or longer (or for six months or longer in the case of a part-time worker engaging in the specified services set forth in Article 13, paragraph (1), item (ii) of the Regulation for Enforcement of the Industry Safety and

Health Act as cited in Article 45 of the same Regulation; the same applies in (2) below) through the renewal of the relevant contract and a person who has been continuously employed for one year or longer as a result of the renewal of the relevant contract).

(2) The person's weekly working hours are not shorter than three-quarters of the weekly working hours of ordinary workers engaging in the same type of duties in the relevant workplace.

XIV. Development of Consultation System

An employer must develop a consultation system (a system of a consultation office, etc. to accept consultations including complaints) in order to accept and properly respond to consultations from part-time and fixed-term workers he/she employs (Article 16 of the Part-Time and Fixed-Term Workers Act).

An employer should preferably make efforts to provide information on a consultation office or other system to part-time and fixed-term workers by clearly indicating it in documents to be delivered upon hiring (see "III. Clear Indication of Working Conditions upon Hiring" of this Chapter) or posting it in an easily visible location in the workplace.

XV. Part-Time and Fixed-Term Employment Managers

The Part-Time and Fixed-Term Workers Act provides that an employer must endeavor to appoint a part-time and fixed-term employment manager for each place of business where the number of part-time and fixed-term workers regularly employed is not less ten (Article 17 of the Part-Time and Fixed-Term Workers Act and Article 6 of the Regulation for Enforcement of the Part-Time and Fixed-Term Workers Act).

A part-time and fixed-term employment manager is to manage the matters for securing proper working conditions and improving employment management for part-time and fixed-term workers, and should be appointed from among persons who are found to have knowledge and experience necessary for the improvement of employment management for part-time and fixed-term workers, such as the matters specified in the Guidelines (Article 7 of the Regulation for Enforcement of the Part-Time and Fixed-Term Workers Act).

XVI. Shift to Becoming Ordinary Workers

An employer who employs part-time or fixed-term workers must take measures to promote their shift to becoming ordinary workers (Article 13 of the Part-Time and Fixed-Term Workers Act).

Specifically, required measures are the following.

(1) When newly recruiting ordinary workers, make that job-opening information known to part-time and fixed-term workers he/she already employs

(2) When offering posts of ordinary workers within the company, also provide part-time and fixed-term workers with chances to apply for the posts

(3) Introduce an examination system or other system to promote shift of part-time and fixed-term workers to becoming ordinary workers

(4) Take other measures to promote their shift to becoming ordinary workers

As not a few part-time and fixed-term workers do not want to become ordinary workers at different workplaces, shift to becoming ordinary workers means employment as ordinary workers at the workplaces where they are currently employed (Article 3, paragraph (1) of the Part-Time and Fixed-Term Workers Act).

XVII. Mechanism to Settle Complaints and Disputes

When receiving any complaint from a part-time or fixed-term worker, an employer must endeavor to achieve a voluntary resolution within the workplace (Article 22 of the Part-Time and Fixed-Term Workers Act).

In general, an employer seeks resolution within the workplace by utilizing an in-house complaint handling system or having a personnel official or a part-time and fixed-term employment manager handle the case.

As public assistance in resolution of disputes between part-time and fixed-term workers and employers, the following are available.

[i] Advice, guidance or recommendation by the Director of the Prefectural Labour Bureau (Article 24 of the Part-Time and Fixed-Term Workers Act)

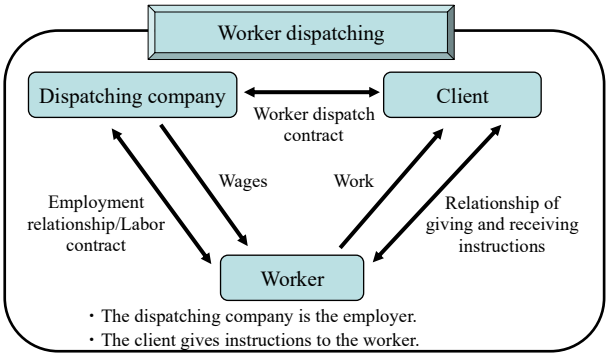
[ii] Conciliation by the Conciliation Committee on Equal Treatment established in the Prefectural Labour Bureau (Article 25 of the Part-Time and Fixed-Term Workers Act)

Chapter 16: Dispatched Workers

I. Worker Dispatching

Under the Worker Dispatching Act, worker dispatching is defined as "causing a worker employed by one person so as to be engaged in work for another person under the instruction of the latter, while maintaining his/her employment relationship with the former, but excluding cases where the former agrees with the latter that such worker shall be employed by the latter" (Article 2, item (i) of the Worker Dispatching Act).

In other words, worker dispatching must satisfy the following requirements: [i] dispatching a worker that a person employs [ii] to some other person's workplace, [iii] while maintaining that employment relationship, and [iv] having the worker engage in work for that other person [v] under that person's instruction, but [vi] not having such worker engage in work under an agreement to let that other person employ the relevant worker.



II. Worker Dispatching Undertakings

1. Worker Dispatching Undertakings

Worker dispatching undertaking means carrying out worker dispatching in the course of trade (Article 2, item (iii) of the Worker Dispatching Act). Businesses that fit with this definition are all covered by the Worker Dispatching Act.

Any person who intends to carry out a worker dispatching undertaking must file an application to obtain a license from the Minister of Health, Labour and Welfare (Article 5, paragraph (1) of the Worker Dispatching Act).

Clients may not receive workers dispatched by a dispatching company without a license.

The amendment of the Worker Dispatching Act in 2015 abolished the classification of specified worker dispatching undertakings (undertakings to dispatch only regularly employed workers (notification required)) and general worker dispatching undertakings (worker dispatching undertakings other than specified worker dispatching undertakings (license required)), and all business establishments carrying out a worker dispatching undertaking have come to be required to obtain a license from the Minister of Health, Labour and Welfare.

2. Services for which Worker Dispatching is not Allowed

No person is allowed to carry out a worker dispatching undertaking with regard to the following services (Article 4, paragraph (1) of the Worker Dispatching Act and Article 2 of the Worker Dispatching Order).

[i] Port transport services

[ii] Construction work

[iii] Security services

[iv] Medical services at hospitals, etc. (*)

* Excluding cases of employment placement dispatching

Dispatching companies must not dispatch workers for the abovementioned services ([i] to [iv]) and persons who receive the provision of worker dispatching services must not have dispatched workers engage in these services (Article 4, paragraph (3) of the Worker Dispatching Act). Therefore, when a company intends to have workers employed by another company engage in these services, a form of consignment or contract for work needs to be employed.

Additionally, worker dispatching undertakings are not allowed for the following services.

- ○ Worker dispatching undertakings are not allowed based on the purport of respective laws and regulations stipulating the following services.
  - [i] Services of a lawyer, registered foreign lawyer, judicial scrivener, and land and house investigator
  - [ii] Services of a certified public accountant, certified tax accountant, patent attorney, public consultant on social and labor insurance, and certified administrative procedures specialist (excluding some of their services)
  - [iii] Services of a managing architect at a registered architect's office
- ○ Within the personnel and labor management-related services, for services conducted at client companies as a direct party on the employer's side in collective bargaining or labor-management negotiations for concluding an agreement prescribed in the Labor Standards Act, worker dispatching undertakings are not allowed in light of the purport of Article 25 of the Worker Dispatching Act.
- ○ Workers must not be newly dispatched to business offices where a strike or lockout is underway or where a labor dispute action is taking place and a strike or lockout is highly likely to occur (Article 24 of the Worker Dispatching Act and Article 20 of the Employment Security Act).
- ○ It is not permitted to dispatch workers with the intention of inducing them to engage in work injurious to public health or public morals (Article 58 of the Worker Dispatching Act).

III. Points to Note When Accepting Dispatched Workers

1. Legal Relationship of Dispatched Worker, Dispatching Company and Client (Triangular Legal Relationship)

The triangular legal relationship among a dispatched worker, a dispatching company and a client under the Worker Dispatching Act is as follows.

(1) Relationship between the dispatched worker and the dispatching company

The dispatched worker is employed by the dispatching company under a labor contract concluded therewith and engages in work in a workplace of the client under instructions from the client.

(2) Relationship between the dispatching company and the client

Under a worker dispatch contract concluded with the client, the dispatching company dispatches the worker it employs to the client's workplace to have him/her work there, while delegating its rights to give instructions to the worker to the client within the scope necessary for his/her performance of work at the client's workplace.

(3) Relationship between the client and the dispatched worker

The dispatched worker works for the client under instructions from the client.

(4) Regulations upon concluding a worker dispatch contract

In worker dispatching, a dispatched worker works under unconventional circumstances wherein a person who employs the worker (a dispatching company) and a person who gives instructions to the worker (a client) are different. Therefore, it is necessary to clarify conditions among the dispatched worker, dispatching company and client concerned for the purpose of preventing trouble and ensuring proper employment management. The Worker Dispatching Act provides for the following measures to be taken by a dispatching company and a client upon concluding a worker dispatch contract

[i] The parties to the worker dispatch contract should decide working conditions of a dispatched worker during the dispatching period in the contract (Article 26, paragraph (1) of the Worker Dispatching Act).

[ii] The parties should make an agreement concerning cases of cancellation of the worker dispatch contract on any grounds attributable to the client, such as the client's obligation to secure another job opportunity for the worker and bear expenses required for the payment of allowance for absence from work (Article 26, paragraph (1) and Article 29-2 of the Worker Dispatching Act).

[iii] The parties should clearly indicate working conditions, etc. specified in the worker dispatch contract to the relevant dispatched worker (Article 34 of the Worker Dispatching Act).

[iv] The dispatching company should provide the client with necessary information concerning the dispatched worker, including his/her name, etc. (Article 35 of the Worker Dispatching Act).

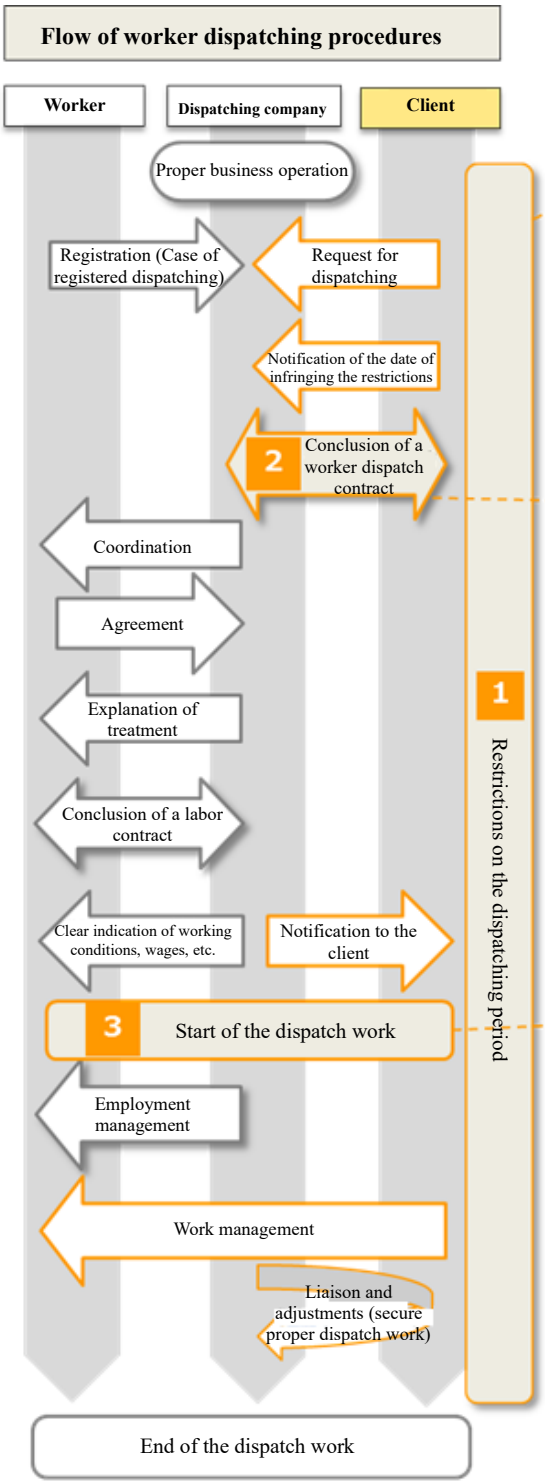
2. Points to Note When Accepting Dispatched Workers

Points to note on the side of a client accepting dispatched workers are explained below.

It should be noted that if a client commits any violation regarding these points, advice, guidance or recommendation may be given by the Director of the Prefectural Labour Bureau, and when a client has failed to follow such recommendation, that fact may be publicized.

< Flow of worker dispatching procedures and major points >

The following are major points to be noted in particular by a client when accepting a dispatched worker.



1 Restrictions on the dispatching period

✓	Check
	Understand the restrictions on the dispatching period per workplace and per worker
	Understand the system of deemed application for labor contract

2 Upon conclusion of a worker dispatch contract

✓	Check
	Have not conducted a preliminary interview of the dispatched worker
	Not for services for which worker dispatching is prohibited
	Have decided all matters that should be specified in the contract

3 Upon start of the dispatch work

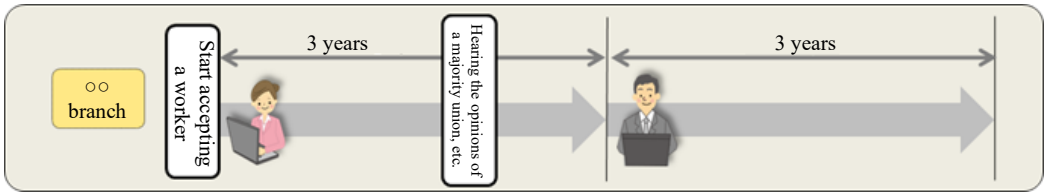
✓	Check
	Have not accepted a person who resigned from the company within 1 year
	Have confirmed that the worker has taken out social and labor insurance
	Have appointed a responsible person acting for the client and prepared a management record
	Understand the obligation to consider equal treatment between the dispatched worker and own employees

(1) Restrictions on the dispatching period (Article 40-2, paragraphs (1) to (5) and Article 40-3 of the Worker Dispatching Act)

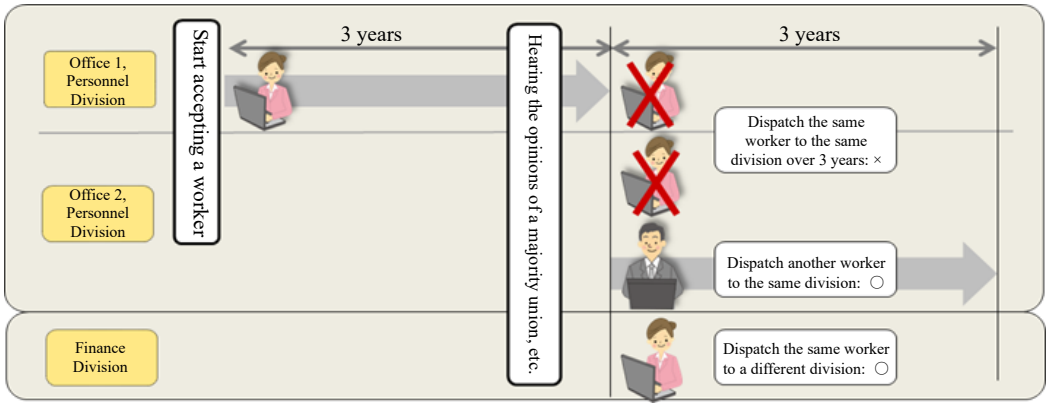
There are restrictions on the period for worker dispatching per workplace and per worker.

Three years is the maximum number of years for dispatching a worker to the same workplace of a client, in principle. When a client intends to continue accepting a worker over three years, the client needs to hear the opinions of its majority union or the equivalent.*

* When a client does not have a majority union, a person representing the majority of the workers in the workplace



The maximum number of years for dispatching a worker to the same organization (such as the same division) in a client's workplace is three years.



* The following persons and services are excluded from the restrictions on the dispatching period.

- A dispatched worker employed by a dispatching company without a fixed term
- A dispatched worker aged 60 years or older
- Services for a fixed-term project (services for starting, changing, expanding, downsizing or abolishing a business that are completed within a certain period of time)
- Services for limited number of days (the number of days required for the services per month is very low in comparison with ordinary workers and is 10 days or less per month)
- Services of a worker who takes maternity leave before and after childbirth, child care leave, family care leave, etc.

* Procedures for hearing opinions

When a client intends to extend a dispatching period beyond the limit of three years per workplace, the client needs to hear the opinions of its majority union or the equivalent* after explaining the workplace that will accept dispatched workers and the dispatching period to be extended.

* When a client does not have a majority union, a person representing the majority of the workers in the workplace

・Opinions need to be heard by one month prior to the date of infringing the restrictions on the dispatching period.
・When there are objections from a majority union, etc., the client must explain the policies to be taken.

< Complement > Restrictions on dispatching of day laborers and worker dispatching to group companies

・In principle, it is prohibited to dispatch a worker under a labor contract concluded with a dispatching company for a fixed term of 30 days or shorter.
  * A worker engaging in software development or other services specified by Cabinet Order, a worker aged 60 years or older, a student worker, a worker doing side work, and a worker who is not the major livelihood earner are excluded.
・Workers dispatching to group companies need to be 80% or less of the overall worker dispatching undertaking of a dispatching company.

(2) Upon conclusion of a worker dispatch contract

The following should be noted when concluding a worker dispatch contract with a dispatching company.

[i] Prohibition of a preliminary interview

・Except for cases of employment placement dispatching, it is prohibited, in principle, for a client to designate a worker to be dispatched, conduct a preliminary interview, or request that a resume be sent, etc. (Article 26, paragraph (6) of the Worker Dispatching Act).

[ii] Need to conclude a proper worker dispatch contract

・Worker dispatching is prohibited for port transport services, construction work, security services, medical services at hospitals, etc. (cases of employment placement dispatching are exceptions). It is not permitted to have a dispatched worker engage in these services (Article 4, paragraph (3) of the Worker Dispatching Act).
・Before concluding a worker dispatch contract, a client needs to inform a dispatching company of the date on which the restrictions on the dispatching period per workplace come to be infringed (Article 26, paragraph (4) of the Worker Dispatching Act).
・It is necessary for the parties to make an agreement in a worker dispatch contract concerning the details of the services as well as the measures necessary for ensuring stable employment of a dispatched worker in cases of midterm cancellation of the contract on any grounds attributable to the client (such matters as securing of another job opportunity for the worker and bearing of expenses required for the payment of allowance for absence from work) (Article 26, paragraph (1), item (viii) of the Worker Dispatching Act).
・Before concluding a worker dispatch contract, a client needs to provide a dispatching company with required information such as wages of workers for comparison (Article 26, paragraph (7) of the Worker Dispatching Act).

(3) Upon start of the dispatch work

[i] Prohibition of acceptance of a worker who resigned from the company within one year

A client cannot accept a worker who it directly employed in the past (as an employee or a part-timer, etc.; excluding a retired worker aged 60 years or older) as a dispatched worker via a dispatching company within one year after his/her separation from employment (Article 40-9 of the Worker Dispatching Act)

[ii] Application of social and labor insurance

A client needs to confirm that a dispatched worker it intends to accept has appropriately taken out social and labor insurance.

[iii] Handling of complaints from a dispatched worker

A client must put in place a system to handle complaints from a dispatched worker (Article 40, paragraph (1) of the Worker Dispatching Act).

[iv] Appointment of a responsible person acting for the client and preparation of a management record

A client must appoint a responsible person acting for the client and prepare a management record for each workplace accepting a dispatched worker (Articles 41 and 42 of the Worker Dispatching Act).

[v] Provision of job-opening information

When a client recruits full-time workers for the workplace, the client must provide that job-opening information also to any dispatched worker having been accepted in the workplace continuously for one year or longer (Article 40-5, paragraph (1) of the Worker Dispatching Act).

When a client receives a request from a dispatching company to directly employ a dispatched worker who is expected to be accepted for services at the client's same organization continuously for three years, as a measure to ensure the worker's stable employment, and the client is intending to newly recruit a worker (not limited to a regular worker) for that workplace, the client must provide that job-opening information also to the relevant dispatched worker (Article 40-5, paragraph (2) of the Worker Dispatching Act).

[vi] Measures that a client is required to take for the purpose of eliminating unreasonable differences in treatment for dispatched workers

A client needs to take the following measures for the purpose of eliminating unreasonable differences in treatment for dispatched workers.

- ○ Give due consideration to the fee for worker dispatching so as to eliminate unreasonable differences in treatment by a dispatching company based on the provisions of Article 30-3 or Article 30-4 of the Worker Dispatching Act (Article 26, paragraph (11) of the Worker Dispatching Act)
- ○ When providing education and training for having its employees acquire skills necessary for performing duties, also provide such education and training to dispatched workers at a request from a dispatching company (Article 40, paragraph (2) of the Worker Dispatching Act)
- ○ Provide dispatched workers with chances to utilize welfare facilities (a company cafeteria, resting rooms and locker rooms) in the same manner as its employees (Article 40, paragraph (3) of the Worker Dispatching Act)
- ○ Give due consideration and take necessary measures such as allowing dispatched workers to use facilities that a client established and operates and its employees ordinarily use (a company clinic, shop and hospital, etc.) (Article 40, paragraph (4) of the Worker Dispatching Act)

○ When requested by a dispatching company, give due consideration and offer necessary cooperation such as providing information on the worker to be employed by a client, the status of the worker's performance of duties and other necessary information (Article 40, paragraph (5) of the Worker Dispatching Act).

(4) Midterm cancellation of a worker dispatch contract

[i] A client needs to obtain consent of the dispatching company in advance and should ask for cancellation of a worker dispatch contract with a sufficient grace period.

[ii] A client needs to make efforts to secure another job opportunity for the relevant dispatched worker by such means as introducing a job in its affiliated company (Article 29-2 of the Worker Dispatching Act).

[iii] When a client cannot secure another job opportunity for the relevant dispatched worker, the client needs to at least compensate damage sustained by the dispatching company due to the midterm cancellation (Article 29-2 of the Worker Dispatching Act).

[iv] When a client intends to cancel a worker dispatch contract and there is a request from the dispatching company, the client needs to clarify the reason for the cancellation to the dispatching company (2, VI. (v) of the Guidelines Concerning Measures to be Taken by Clients Accepting Dispatched Workers).

(5) System of deemed application for labor contract

When a client has accepted a dispatched worker illegally as shown below, it is deemed that the client filed, at that point in time, an application for a labor contract with the same working conditions as those specified by the dispatching company, and the labor contract is established upon agreement of the dispatched worker (excluding cases where a client did not know that the relevant worker dispatching is illegal and was not negligent in failing to know that fact) (Article 40-6 of the Worker Dispatching Act).

(Reference) Illegal worker dispatching covered under this system

[i] Having a dispatched worker engage in prohibited services

[ii] Having accepted a dispatched worker from a company without license

[iii] Having accepted a dispatched worker in violation of restrictions on dispatching period per workplace or per worker

[iv] A case of so-called work contract fraud

IV. Application of the Labor Standards Act, etc. to Dispatch Work

1. Application of Laws and Regulations to Illegal Worker Dispatching

With regard to the application of the Labor Standards Act and other worker protection laws, the Worker Dispatching Act maintains the principle that a dispatching company should assume responsibility as a party to a labor contract but establishes special provisions to prescribe that a client also assumes responsibility as an employer as prescribed by the Labor Standards Act, focusing on the actual status wherein the client gives instructions to the worker.

These special provisions are for sharing of responsibilities in relation to the Labor Standards Act and other laws and regulations in light of the unique employment pattern of worker dispatching and are to be applied not only to lawful worker dispatching undertakings but also to worker dispatching undertakings carried out illegally by other companies (limited to cases where their businesses are covered under the Labor Standards Act), as well as to worker dispatching not on a regular basis. This point should be noted (Article 44, paragraph (1) of the Worker Dispatching Act).

For example, when a subcontractor has concluded a contract for work but the reality is in violation of the requirements in the Classification Criteria between Worker Dispatching Undertaking and Business under Contract for Work (Public Notice No. 37), in other words, if the subcontractor only dispatches a worker and the original contractor has such worker work together with its employees under its instructions, the situation falls under worker dispatching in violation of the law. In this case, the client is considered to be an employer of the relevant dispatched worker under the Labor Standards Act and the Industrial Safety and Health Act and is subject to the punishments under these Acts (in Article 44 onward of the Worker Dispatching Act, applicable workers are defined as "workers employed by an employer and dispatched to a client" not as "workers dispatched from a dispatching company").

2. Application of Special Provisions of the Labor Standards Act, etc.

The Worker Dispatching Act provides for application of special provisions with regard to the Labor Standards Act, the Industrial Safety and Health Act, the Pneumoconiosis Act, the Working Environment Measurement Act, the Equal Employment Opportunity Act, the Child Care and Family Care Leave Act, and the Labor Policies Comprehensive Promotion Act (Articles 44 to 47-4 of the Worker Dispatching Act).

With regard to the application of the Labor Standards Act, etc. to dispatched workers, the Worker Dispatching Act maintains the principle that the responsibility should basically be assumed by a dispatching company, which has a labor contract relationship with a dispatched worker, but establishes special provisions to prescribe that a client should assume responsibility for the matters for which the dispatching company cannot be held liable in light of the actual status of worker dispatching and for the matters for which it is appropriate to have the client assume responsibility for ensuring effective protection of the dispatched worker.

Concrete sharing of responsibilities is as exemplified below.

[i] With regard to matters concerning specific details of work, such as working hours, rest periods, days off, the framework of working hours and days off is to be made by the dispatching company, while the client, who actually gives instructions based on such framework, assumes the responsibility to comply with the provisions on working hours, etc. under the Labor Standards Act.

* Application of working hours

The client falls under an employer under the Labor Standards Act with regard to the application of working hours, while the dispatching company falls under an employer under the Labor Standards Act with regard to a labor-management agreement on overtime work, work on days off, or on a various working hours system, granting of annual paid leave, and maternity leave before and after childbirth (regarding time for child care and work during a menstrual period, the client is responsible).

Therefore, even though a worker dispatch contract provides that a worker can work in excess of eight hours per day or can work on statutory holidays, if the dispatching company has not concluded and submitted an agreement under Article 36, the client may not order a worker work overtime or on a day off. In other words, when the

dispatching company has specified in a worker dispatch contract such matters as working days and the fact that a worker can work outside the starting or finishing times, but has failed to conclude and submit an agreement under Article 36 containing the same effect and dispatches the relevant worker to the client, this may trigger the client's violation of the Labor Standards Act and such worker dispatching is prohibited. Eventually, the client can only order overtime work or work on a day off to the dispatched worker within the scope of an agreement under Article 36 specified by the dispatching company.

[i] With regard to matters concerning industrial safety and health, the client principally assumes the obligation to take measures concerning the installation and management of facilities and dangerous and injurious work by giving concrete instructions, while the dispatching company assumes the obligation for general medical examinations and other measures to be continuously taken during the employment term and safety education to be provided upon hiring.

*1 Note that collaboration between a dispatching company and a client and safety education targeting dispatched workers are detailed in the following Public Notices.

- "Guidelines Concerning Measures to be Taken by Dispatching Companies" (Public Notice of the Ministry of Labour No.137 of 1999)
- "Guidelines Concerning Measures to be Taken by Clients Accepting Dispatched Workers" (Public Notice of the Ministry of Labour No.138 of 1999)
- "Securing Working Conditions and Industrial Safety and Health for Dispatched Workers" (Kihatsu No.0331010 of March 31, 2009)
- Concerning Partial Revision of the Public Notice titled "Securing Working Conditions and Industrial Safety and Health for Dispatched Workers" (Kihatsu No. 0930, No. 5 of September 30, 2015)

*2 Application of the Labor Standards Act and other laws and regulations is briefly compiled as follows.

< Application of the Labor Standards Act, etc. >

1. Labor Standards Act

Dispatching company	Client
- Equal treatment	- Equal treatment
- Principle of the same wage between men and women	
- Prohibition of forced labor	- Prohibition of forced labor
	- Guarantee of the exercise of civil rights
- Labor contract	
- Wages	
- Conclusion and submission of an agreement on a one-month variable working hours system, flextime system, or one-year variable working hours system; Conclusion and submission of an agreement on overtime work and work on days off; Conclusion and submission of an agreement on work outside workplaces; Conclusion and submission of an agreement on a discretionary work system for professional work	- Working hours, rest periods, days off
- Premium wages for overtime work, work on days off, and work at night	
- Annual paid leave	
- Minimum age	
- Certificates for minors	
	- Working hours and days off (minors)
	- Work at night (minors)
	- Limitation on dangerous and injurious work (minors and expectant or nursing mothers, etc.)
	- Prohibition of belowground work (minors)
	- Limitation on belowground work (expectant or nursing mothers, etc.)
- Travel expenses for returning home (minors)	
- Maternity leave before and after childbirth	
	- Overtime work, work on days off, and work at night before and after childbirth
	- Time for child care
	- Measures for whom work during the menstrual period would be difficult
- Elimination of abuse of apprenticeship	- Elimination of abuse of apprenticeship
- Special provisions regarding vocational training	
- Accident compensation	
- Rules of employment	
- Dormitories	
- Prohibition of disadvantageous treatment on the grounds of making a report	- Prohibition of disadvantageous treatment on the grounds of making a report
- Obligation of state assistance	- Obligation of state assistance
- Obligation to disseminate laws and regulations	- Obligation to disseminate laws and regulations (excluding rules of employment)
- Roster of workers	
- Wage ledger	
- Preservation of records	- Preservation of records
- Obligation to make reports	- Obligation to make reports

2. Industrial Safety and Health Act

Dispatching company	Client
- Responsibilities of employers to secure industrial safety and health in workplaces	- Responsibilities of employers to secure industrial safety and health in workplaces

- Responsibilities of workers to offer cooperation to measures to prevent industrial accidents taken by employers, etc.	- Responsibilities of workers to offer cooperation to measures to prevent industrial accidents taken by employers, etc.
- Recommendations, etc. by the Minister of Health, Labour and Welfare concerning the implementation of an industrial accident prevention plan	- Recommendations, etc. by the Minister of Health, Labour and Welfare concerning the implementation of an industrial accident prevention plan
- Appointment, etc. of a general safety and health manager	- Appointment, etc. of a general safety and health manager
	- Appointment, etc. of a safety officer
- Appointment, etc. of a health officer	- Appointment, etc. of a health officer
- Appointment, etc. of a safety and health promoter	- Appointment, etc. of a safety and health promoter
- Appointment, etc. of an industrial physician	- Appointment, etc. of an industrial physician
	- Appointment, etc. of an operations chief
	- Appointment, etc. of an overall safety and health controller
	- Appointment, etc. of a principal safety and health supervisor
	- Appointment, etc. of a site safety and health supervisor
	- Safety Committee
	- Health Committee
- Health Committee	- Education for safety officers
- Education for safety officers	- Measures to prevent dangers and health impairment of workers
	- Measures to be taken by employers
	- Matters to be observed by workers
	- Surveys, etc. to be conducted by employers
	- Measures to be taken by principal employers
	- Measures to be taken by specified principal employers
	- Periodical self-inspection
	- Investigation of toxicity of chemical substances
	- Safety and health education (upon changing work content and assigning dangerous and injurious work)
- Safety and health education (upon hiring and changing work content)	- Education for foremen
	- Education for workers engaging in dangerous and injurious work
- Education for workers engaging in dangerous and injurious work	- Limitation on work
	- Consideration for middle-aged and aged workers
- Consideration for middle-aged and aged workers	- State assistance for safety and health education provided by employers
- State assistance for safety and health education provided by employers	- Working environment measurement
	- Evaluation of the working environment measurement results
	- Control of work
	- Restriction on working hours
	- Medical examination (medical examination, etc. in relation to injurious work, hearing of opinions on the examination results)
- Medical examination (general medical examination, etc., hearing of opinions on the examination results)	- Medical examination (measures to change work, etc. based on the examination results)
- Medical examination (measures to change work, etc. based on the examination results)	
- Notification of medical examination results	
- Health guidance by a physician, etc.	
	- Ascertaining of the status of working hours
- Face-to-face guidance by a physician, etc.	
- Examination, etc. for ascertaining the levels of psychological burdens (implementation of examination, notification of examination results, face-	

to-face guidance by a physician, hearing of opinions on the examination results, and change of work, etc.) - Health education, etc. - Providing convenience, etc. for physical exercise - Prohibition of disadvantageous treatment on the grounds of making a report - Report, etc. - Dissemination of laws and regulations - Preservation of documents, etc. - State assistance for the development of safety and health facilities by employers - Epidemiological survey, etc.	- Prohibition of employment of the sick - Prevention of secondhand smoking - Health education, etc. - Providing convenience, etc. for physical exercise - Measures for creating a comfortable work environment - Safety and health improvement plan, etc. - Notification and investigation, etc. of a plan on installation and relocation of machines, etc. - Prohibition of disadvantageous treatment on the grounds of making a report - Order of suspension of use, etc. - Report, etc. - Dissemination of laws and regulations - Preservation of documents, etc. - State assistance for the development of safety and health facilities by employers - Epidemiological survey, etc.

3. Pneumoconiosis Act

Dispatching company	Client
- Company's responsibility based on the results of the pneumoconiosis examinations - Measures to reduce the level of exposure to particulates - Change of work - Allowance for change - Education and training for change of work - Government's technical assistance, etc. - Prohibition of disadvantageous treatment on the grounds of making a report - Reporting	- Responsibility of the company and workers to take appropriate measures concerning prevention of pneumoconiosis - Education concerning prevention of pneumoconiosis and health management - Implementation of pneumoconiosis examinations* - Determination of classification for supervision of pneumoconiosis* - Company's responsibility based on the results of the pneumoconiosis examinations - Measures to reduce the level of exposure to particulates - Change of work - Education and training for change of work - Government's technical assistance, etc. - Dissemination of laws and regulations* - Prohibition of disadvantageous treatment on the grounds of making a report - Reporting

(Note) Provisions marked with * apply to a dispatching company after worker dispatching to a workplace of dust work finishes.

4. Working Environment Measurement Act

Dispatching company	Client
	- Implementation of working environment measurement by a working environment measurement expert or a working environment measurement agency

5. Act on Securing, etc. of Equal Opportunity and Treatment between Men and Women in Employment

Dispatching company	Client

- Prohibition of dismissal or other disadvantageous treatment on the grounds of pregnancy and childbirth, etc. - Measures in terms of employment management concerning problems caused by sexual language and behavior in the workplace - Employer's responsibility concerning problems caused by sexual language and behavior in the workplace - Measures in terms of employment management concerning problems caused by language and behavior in relation to pregnancy and childbirth, etc. in the workplace - Employer's responsibility concerning problems caused by language and behavior in relation to pregnancy and childbirth, etc. in the workplace - Measures concerning health management during pregnancy and after childbirth	- Prohibition of disadvantageous treatment on the grounds of pregnancy and childbirth, etc. - Measures in terms of employment management and in terms of instructions concerning problems caused by sexual language and behavior in the workplace Employer's responsibility concerning problems caused by sexual language and behavior in the workplace - Measures in terms of employment management and in terms of instructions concerning problems caused by language and behavior in relation to pregnancy and childbirth, etc. in the workplace - Employer's responsibility concerning problems caused by language and behavior in relation to pregnancy and childbirth, etc. in the workplace - Measures concerning health management during pregnancy and after childbirth

6. Act on Childcare Leave, Caregiver Leave, and Other Measures for the Welfare of Workers Caring for Children or Other Family Members

Dispatching company	Client
- Prohibition of dismissal or other disadvantageous treatment on the grounds of the use of the systems of child care leave, parental leave, family care leave, sick/injured child care leave, nursing leave, limitation on work in excess of regular working hours, limitation on overtime work, limitation on night work, measures to shorten regular working hours, or filing of a notification concerning the pregnancy, childbirth, etc. of a worker or a worker's spouse, or failure to report their days available for work, etc. during parental leave or to give consent thereto, etc. - Measures in terms of employment management concerning problems caused by language and behavior in relation to child care leave, family care leave, etc. in the workplace - Employer's responsibility concerning problems caused by language and behavior in relation to child care leave, family care leave, etc. in the workplace	- Prohibition of disadvantageous treatment on the grounds of the use of the systems of child care leave, parental leave, family care leave, sick/injured child care leave, nursing leave, limitation on work in excess of regular working hours, limitation on overtime work, limitation on night work, measures to shorten regular working hours, or filing of a notification concerning the pregnancy, childbirth, etc. of a worker or a worker's spouse, or failure to report their days available for work, etc. during parental leave or to give consent thereto, etc. - Measures in terms of employment management and in terms of instructions concerning problems caused by language and behavior in relation to child care leave, family care leave, etc. in the workplace - Employer's responsibility concerning problems caused by language and behavior in relation to child care leave, family care leave, etc. in the workplace

7. Act on Comprehensive Promotion of Labor Policies and on Stabilization of Employment and Enhancement of Vocational Lives

Dispatching company	Client
- Measures in terms of employment management concerning problems caused by language and behavior based on a predominant position in the workplace - Employer's responsibility concerning problems caused by language and behavior based on a predominant position in the workplace	- Measures in terms of employment management concerning problems caused by language and behavior based on a predominant position in the workplace - Employer's responsibility concerning problems caused by language and behavior based on a predominant position in the workplace

3. Employers' Responsibility for Dispatched Workers and Obligation to Consider Safety

As it is a client that gives instructions and uses a dispatched worker, the client is not only subject to the application of the Labor Standards Act, etc. as mentioned above but also must be liable, in such relationship, for any damage caused by a dispatched worker to someone while executing business. Additionally, for a person who has come to have "special social contact," a client assumes the obligation to pay attention to such person's safety and therefore a client is considered to have obligation to consider the safety of a dispatched worker (Judgment of the Urawa District Court rendered on the Sanpo Konpo Case on May 28, 1993).

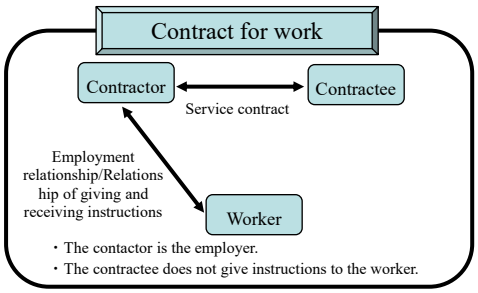
4. Application of Minimum Wages to Dispatched Workers

With regard to a dispatched worker, minimum wages (regional minimum wage or special minimum wage (by industry)) applicable to the client's workplace apply. For example, if a dispatching company is located in Saitama and a client is located in Tokyo, the regional minimum wage or special minimum wage (by industry) for Tokyo Metropolis applies to the relevant dispatched worker (effective from July 1, 2009).

V. Difference from Other Human Resources-related Businesses

1. Contract for Work

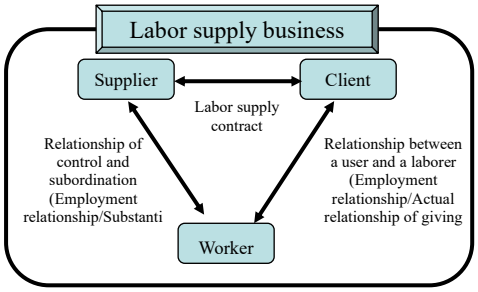
Contract for work differs from worker dispatching in that no relationship of giving and receiving instructions arises between a contractee and a worker. However, it is not always easy to judge whether a certain business falls under a worker dispatching or a contract for work. Therefore, classification criteria are defined (see references below).



2. Labor Supply Business

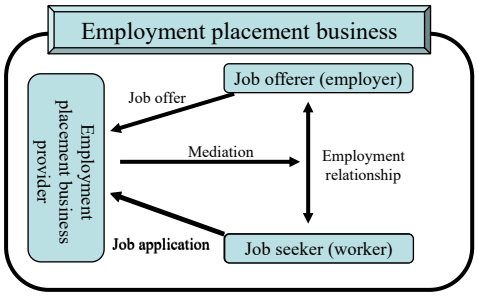
Labor supply business is totally prohibited except for a free labor supply business carried out by a labor union by obtaining a license from the Minister of Health, Labour and Welfare and a business falling under a worker dispatching undertaking under the Worker Dispatching Act (Article 44 of the Employment Security Act).

* Accepting a worker as a dispatched worker and further dispatching the relevant worker to a third party (double dispatching) falls under a labor supply business and is prohibited.



3. Fee-Charging Employment Placement Business

Employment placement business is a business to accept job offers and job applications and mediate the establishment of an employment relationship between a job offerer and a job seeker. An employment placement business that operates by receiving fees or compensation requires a license of the Minister of Health, Labour and Welfare (Article 30 of the Employment Security Act).



< Reference 1 > Classification Criteria between Worker Dispatching Undertaking and Business under Contract for Work

(Public Notice of the Ministry of Labour No.37 of 1986) (Extract)

Article 2 A company that has workers it employs engage in business to be performed under an agreement in the form of contract on a regular basis is to also fall under a company conducting a worker dispatching undertaking except for cases where it falls under all of the following items in relation to the execution of the relevant business.

(i) Falling under all of (a) to (c) below and directly utilizing labor of a worker that the company employs by itself:

(a) Falling under both i. and ii. below and individually giving instructions or otherwise conducting management concerning the execution of work:

i. Individually give instructions or otherwise conduct management concerning means of executing work in relation to the relevant worker

ii. Individually give instructions or otherwise conduct management concerning evaluations, etc. of the relevant worker's performance of work

(b) Falling under both i. and ii. below and individually giving instructions or otherwise conducting management concerning working hours, etc.:

i. Individually give instructions or otherwise conduct management concerning the relevant worker's times of starting and finishing work, rest periods, days off, leave, etc. (excluding a duty to simply ascertain these matters)

ii. Individually give instructions or otherwise conduct management when extending the relevant worker's working hours or when having the worker work on a day off (excluding a duty to simply ascertain working hours, etc. in these cases)

(c) Falling under both i. and ii. below and individually giving instructions or otherwise conducting management for the purpose of securing and maintaining order in the company:

i. Individually give instructions or otherwise conduct management concerning matters relating to the relevant worker's service discipline

ii. Individually decide and change the relevant worker's assignments

(ii) Falling under all of (a) to (c) below and handling the work that the company undertook under a service contract as its own work independently from the contractee:

(a) Raising and paying all funds necessary for handling the work based on its own responsibility

(b) Assuming all responsibilities for the handling of the work as a business operator prescribed under the Civil Code, Commercial Code or other laws

(c) Falling under both i. and ii. below and not simply providing physical labor:

i. Handle the work using machines, facilities or equipment (excluding simple tools necessary in the course of trade), or materials that the company prepared and procured based on its own responsibility at its expense

ii. Handle the work based on its own planning or on its specialized technology or experience

Whether a certain business falls under a worker dispatching undertaking or a contract for work is to be judged based on the actual status. (Requirements for a contract for work indicated above mean that an employer him/herself needs to give instructions and manage labor as its own business and execute business independently based on his/her own responsibility in any case. These requirements also apply to consignment with the aim of handling the consigned work independently. Article 4 of the Regulation for Enforcement of the Employment Security Act also indicates requirements for a contract for work so as not to be considered as a labor supply business, but they are the same in substance.) Accordingly, even if the relevant business satisfies all of the abovementioned requirements, "if it intentionally engages in camouflage in order to avoid violating the provisions of the Worker Dispatching Act, and its true purpose is to carry out the worker dispatching prescribed in Article 2, item (i) of the Act on a regular basis, the business cannot avoid being deemed as a worker dispatching undertaking" (Article 3 of the Public Notice of the Ministry of Labour No.37 mentioned above).

< Reference 2 > Promotion of Improvements and Adjustments of Employment Management in Contracts for Work in the Manufacturing Industry

Contracts for work have been increasingly utilized in the manufacturing industry and have played significant roles in manufacturing sites. However, with regard to contract-based workers (workers who are employed by a contractor and work in the form of a contract for work), working conditions, treatment or other employment management are not necessarily sufficient as their employment contracts are often renewed repeatedly for short terms, which makes it difficult for them to accumulate technologies and skills. Additionally, labor-related laws and regulations are not strictly applied to them in actuality.

In light of the necessity to improve these circumstances to enable contract-based workers to effectively exert their abilities throughout their current and future vocational lives, and also considering the characteristics of contracts for work wherein contractors are apt to be subject to influences of their contractees with regard to the employment of contract-based workers, it should be said that cooperation of contractees is indispensable to effectively promote improvements and adjustments of employment management in contracts for work.

Therefore, guidelines on measures to be taken for the improvements and adjustments of employment management in contracts for work in the manufacturing industry were compiled respectively targeting contractors and contractees.

- ○ "Guidelines on Measures to be Taken by Contractors for the Improvements and Adjustments of Employment Management in Contracts for Work in the Manufacturing Industry" (June 29, 2007)
- ○ "Guidelines on Measures to be Taken by Contractees for the Improvements and Adjustments of Employment Management in Contracts for Work in the Manufacturing Industry" (June 29, 2007)
- ○ "Check Sheet for Guidelines on Measures to be Taken by Contractors for the Improvements and Adjustments of Employment Management in Contracts for Work in the Manufacturing Industry" (June 29, 2007)
- ○ "Check Sheet for Guidelines on Measures to be Taken by Contractees for the Improvements and Adjustments of Employment Management in Contracts for Work in the Manufacturing Industry" (June 29, 2007)

Chapter 17: Reassignment, Temporary Transfer, and Employment Transfer

I. Reassignment

Reassignment is to have a worker engage in a job other than his/her current job or have a worker work in another work location. Changing a worker's work location accompanying a change of his/her residence is also called relocation.

1. Right to Order Reassignment

In traditional employment practices in Japan, a worker is generally employed based on the premise that he/she will engage in duties as ordered by the company in any place ordered by the company, without specifically making an agreement on job types and workplaces, or on reassignments.

Under such circumstances, a judicial precedent on companies' right to order reassignment states that when the possibility of reassignment is prescribed in rules of employment or a collective agreement, etc., such provision is construed to be included in a labor contract, and a company can order reassignment.

2. Special Clauses on Reassignment

In general, when rules of employment or any other document prescribes the possibility of reassignment due to operational grounds, a company can order reassignment based on this provision. However, if there are any special clauses on limitation on work locations or job types in relation to reassignment, such special clauses are to be prioritized.

(1) Special clauses by implicit agreement

Special clauses may be established not only by explicit agreement (in writing, etc.) but also by implicit agreement. However, they should preferably be clearly indicated in writing or by other means upon hiring in order to avoid risks of future disputes.

(2) Special clauses to limit work locations

When there are special clauses to limit work locations, a company cannot order reassignment that causes a change in work locations.

Therefore, when a certain work location is abolished due to discontinuation of a business, a company has no choice but to dismiss the relevant worker. However, even in such case, from the perspective of securing employment of a worker under a contract with special clauses to limit work locations, the company should confirm such worker's intentions regarding reassignment.

(3) Special clauses to limit job types

When there are special clauses to limit job types, a company cannot order reassignment to have a worker engage in other types of jobs. In general, special clauses to limit job types are only admitted to specialized jobs, such as announcers, nurses and drivers.

Whether a contract includes special clauses to limit job types needs to be judged by comprehensively taking into account not only the details of the job (concrete duties), but also the circumstances at the time of the conclusion of the relevant labor contract, including explanations given upon hiring, and conventional practices of the company.

II. Matters to Note upon Reassignment

Reassignment and other personnel transfers as a whole are subject to legal constraints. Legal constraints include (1) principle of equal treatment (Article 3 of the Labor Standards Act), (2) prohibition of punitive disadvantageous treatment (Article 104, paragraph (2) of the Labor Standards Act, Article 4, paragraph (3) and Article 5, paragraph (2) of the Act on Promoting the Resolution of Individual Labor-Related Disputes, Article 49-3, paragraph (2), etc. of the Worker Dispatching Act, Article 38-4, paragraph (1), item (vi) the Labor Standards Act, and Articles 3 and 6 of the Whistleblower Protection Act), (3) prohibition of unfair labor practices (Article 7 of the Labor Union Act), (4) prohibition of discrimination on the basis of sex (Article 6, paragraph (1) of the Equal Employment Opportunity Act), (5) prohibition of disadvantageous treatment on the grounds of pregnancy or childbirth, etc. (Article 9, paragraph (3) of the Equal Employment Opportunity Act), (6) prohibition of disadvantageous treatment on the grounds of applying for and acquiring child care leave, family care leave, or time off for sick/injured childcare, etc. (Article 10, etc. of the Child Care and Family Care Leave Act), and (7) public policy (Article 90 of the Civil Code). Article 26 of the Child Care and Family Care Leave Act provides that when a reassignment causes any worker to face difficulties in providing child care or family care, the employer must give consideration for the worker's situation with regard to child care or family care.

III. Temporary Transfer

Temporary transfer (where the original employment is maintained) is a work pattern wherein a worker provides labor under supervision of a third-party company (an accepting company) while maintaining the status of an employee based on an employment agreement with the original employer (original company).

Forms of temporary transfer adopted by companies are not necessarily the same, but in the broadly adopted case of temporary transfer where the original employment is maintained, a worker is transferred by his/her original employer to an affiliated company or other third-party company (an accepting company), obtains a position of a worker of the accepting company, while continuously belonging to the original company, and provides labor under instructions of the accepting company as a member thereof.

Article 14 of the Labor Contracts Act provides that "if an employer may order the temporary transfer of a worker, and such order of temporary transfer is found to be an abuse of rights when considering the need for such temporary transfer, the circumstances pertaining to the selection of the worker to be temporarily transferred, or any other circumstances, such order is invalid."

IV. Application of the Labor Standards Act to Temporarily Transferred Workers

When applying the Labor Standards Act to a temporarily transferred worker, a problem occurs as to whether the Act should be applied to the original company or to the accepting company. In other words, the problem is whether the person should be treated as a worker of the original company or a worker of the accepting company, or in the event of a violation of the Labor Standards Act, which company should be liable for that violation.

A Public Notice presented the following construction: "In the case of a temporarily transferred worker who maintains the original employment, labor contract relationships exist both with the original company and the accepting company, and the Labor Standards Act and other laws and regulations apply to both within the scope of respective labor contract relationships. In other words, both the employer of the original company and the employer of the accepting company should be liable for the relevant worker as an employer under the Labor Standards Act, etc. in accordance with the authorities and responsibilities determined through an agreement among the original company, the accepting company and the temporarily transferred worker." (Kihatsu No.333 of June 6, 1986)

Additionally, regarding the application of the Labor Standards Act in the case where a number of companies had given funds to establish a company to temporarily transfer engineers, a Public Notice presented the following construction: "A (temporarily transferred) worker receives instructions from the accepting company regarding concrete means of executing work, times to start and finish work, rest periods and other matters, and a labor relationship exists between the worker and the accepting company to that extent, while the original company maintains the authority to dismiss the worker and pays wages, and a labor relationship also exists between the worker and the original company to that extent. In this case, the Labor Standards Act applies to both companies to the extent of labor relationships respectively existing with the relevant worker." The Public Notice cited related provisions of the Labor Standards Act as follows to concretely show how the Act applies in such case (Kishu No.4901-2 of November 18, 1960).

Item	Relevant provisions of the Labor Standards Act	Application	
		Original company	Accepting company
Wages	Article 24	◎	
Working hours, rest periods, days off, and leave	Articles 32, 34, and 35		◎
Industrial safety and health	Chapter V		◎
Industrial accident compensation	Chapter VIII		◎
Rules of employment	Chapter IX	Within the scope of the authority held respectively	
Roster of workers and wage ledger	Articles 107 and 108	◎	◎

V. Employment Transfer

Employment transfer means to terminate a worker's labor contract relationship with the original company and newly establish a labor contract relationship with an accepting company through agreement between the original company and the accepting company.

This is sometimes called temporary transfer accompanying a change or shift of employment. The abovementioned temporary transfer is a partial transfer of a labor contract, while employment transfer is a transfer of a labor contract in full (the right to give instructions), and it should be noted that legal relations are different.

A judicial precedent states that in order to issue an order for employment transfer, not only the relevant provisions in rules of employment, etc. but also the individual consent of a worker is required (Judgment of the Tokyo District Court rendered on the Sanwa Kizai Case on January 31, 1992). Accordingly, a company may not order employment transfer unilaterally and may not take any disciplinary action to a worker who rejects such order. On the other hand, there is a judicial precedent ruling that it is not necessary to obtain consent of a worker anew under a circumstance where personnel exchanges with affiliated companies are included in a company's personnel system and a worker agreed with a possible employment transfer to an affiliated company upon joining the company, etc. (when comprehensive agreement has been reached) (Judgment of the Chiba District Court rendered on the Hitachi Seiki Case on May 25, 1981).

1. Working Hours, Days Off, Leave, Wages and Other Working Conditions

In the case of employment transfer, the labor contract relationship is completely transferred to an accepting company and working conditions are all determined by the accepting company. However, for workers who will suffer any disadvantage in retirement allowances, etc. due to employment transfer, some companies take certain measures such as increasing retirement allowances or making adjustments to ensure a managerial position in an accepting company.

2. Succession of a Labor Contract upon Company Split

In the case of a company split, whether a labor contract is to be succeeded depends on whether a worker mainly engages in a business to be succeeded or not (Articles 3 to 5 of the Act on the Succession to Labor Contracts upon Company Split (hereinafter referred to as the "Labor Contracts Succession Act")). A labor contract of a worker to be succeeded upon a company split is comprehensively succeeded from a company implementing the company split (a split company) to a succeeding company, etc. and working conditions stipulated therein are maintained as they are.

(1) In the case of a worker mainly engaging in the succeeded business

In the case of a worker mainly engaging in the succeeded business for whom a company split agreement or other document provides for the succession of a labor contract, he/she is to be succeeded to a succeeding company, etc. even without his/her consent. In this case, a worker cannot file an objection.

However, in the case of a worker mainly engaging in the succeeded business but for whom a company split agreement or other document does not provide for the succession of a labor contract (a worker

remaining in the split company), such worker may file an objection and is to be succeeded to a succeeding company, etc. in accordance with his/her intent.

(2) In the case of a worker other than one mainly engaging in the succeeded business

A worker other than one mainly engaging in the succeeded business for whom a company split agreement or other document provides for the succession of a labor contract may file an objection and is to remain in the split company in accordance with his/her intent.

A worker for whom a company split agreement or other document does not provide for the succession of a labor contract may not assert succession.

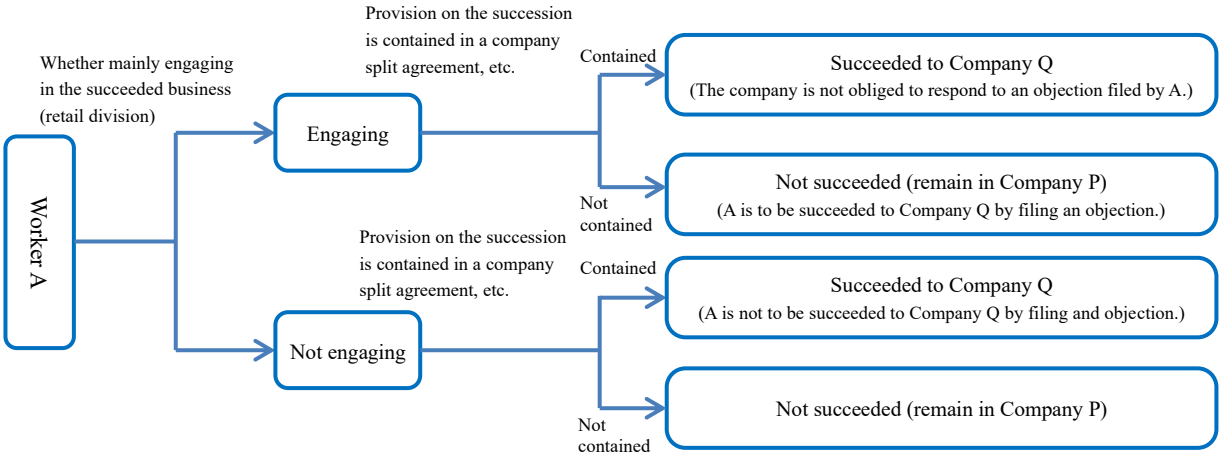
Under the Companies Act, a worker who does not at all engage in the succeeded business may also be succeeded to a succeeding company, etc. by providing for the succession of a labor contract in a company split agreement or other document. However, such worker does not fall under a worker mainly engaging in the succeeded business, and can file an objection to the split company, and a worker filing such an objection is to remain in the split company.

The abovementioned (1) and (2) are schematized as follows.

For detail, see the website of the Ministry of Health, Labour and Welfare (http://www.mhlw.go.jp/general/seido/toukatsu/roushi/dl/01d.pdf).

Succession of a Labor Contract

Whether a labor contract is to be succeeded upon a company split is determined depending on the business a worker engages in and the provisions of a company split agreement or other document (Articles 4 and 5 of the Labor Contracts Succession Act).
(e.g.) Company P, which has a manufacturing division and a retail division, intends to split the retail division and have Company Q succeed to it



* Worker A's working conditions at the split company (Company P) are succeeded to a succeeding company, etc. (Company Q) as they are.

* A company split agreement or other document: meaning a company split agreement in the case of an absorption-type company split, and a company split plan in the case of an incorporation-type company split

3. Employment Transfer through Business Transfer

When a company intends to order employment transfer to workers upon business transfer, instead of a company split, the company must obtain consent individually from targeted workers (Article 625, paragraph (1) of the Civil Code).

As in the case of a company split, dismissal or any disadvantageous changes to working conditions only on the grounds of business transfer are not permitted.

Chapter 18: Safety and Health Management

I. Basic Principles for Measures for Industrial Safety and Health

1. Safety Measures

Industrial accidents occur due to a contact between an object and a human in cases such as where continued use of a machine with a defect causes a worker to get caught therein or to be exposed to hazardous materials.

In order to prevent such industrial accidents, it is important to ensure that machines, etc. are not in an unsafe state and to eliminate workers' unsafe behavior. An employer (as prescribed in the Industrial Safety and Health Act; in this Act, an employer is defined as "one who carries on an undertaking and employs a worker or workers," referring to an employer him/herself in the case of a solo entrepreneur and a corporation itself in the case of a corporation) is required to promote safety management in order to eliminate such unsafe state and behavior.

Accordingly, workplaces need to appoint a safety officer, health officer, safety and health promoter, and operation chief, depending on the number of workers and work types.

Additionally, in order to ensure the safety of machines and equipment, it is necessary to cover dangerous parts, install safety systems appropriately, and conduct safety inspections.

Regarding workers who are to engage in dangerous work or other restricted types of work, it is also necessary to require them to obtain a license or qualification through skill training and provide them with industrial safety and health-related education.

Furthermore, an employer needs to analyze industrial accidents that occurred in its workplaces or in other workplaces of similar types, draw up measures and work procedures to prevent the recurrence of similar accidents and have workers work based thereon.

2. Industrial Health Measures

Industrial health measures basically consist of [i] management of the working environment, [ii] management of work, and [iii] management of health. While promoting these in an interconnected manner, an employer needs to develop an industrial health management system and provide industrial health-related education.

(1) Development of an industrial health management system

It is indispensable to establish an industrial health management system in a workplace in order to promote concrete measures such as the abovementioned three types of management. An employer should be aware of the significance of industrial health management in executing business, and should develop a system by granting sufficient authority to industrial physicians, health officers, health promoters, and other relevant staff and clarifying their responsibilities.

(2) Management of the working environment

In order to ascertain the working environment in the workplace for its management, it is basically necessary to conduct a working environment measurement, properly evaluate the results thereof, and check

the appropriateness of the environment. Based on the results of these procedures, an employer needs to take required measures such as improvement of facilities, proper maintenance of production equipment and local ventilation equipment, and strict implementation of inspections.

(3) Management of work

Basically, in order to manage work, it is necessary to determine appropriate work procedures and means to prevent hazardous factors from occurring and reduce workers' exposure to harmful materials, and to have workers strictly observe them. Appropriate use of protective equipment is also important.

(4) Management of health

Management of the health broadly covers medical examinations and follow-up measures based on the results thereof and health guidance based on the results of health measurements. An employer needs to properly conduct medical examinations not only for detecting workers' diseases early but also for preventing the impairment of workers' health in advance. It is also important to take measures to promote and maintain both the mental and physical health of workers.

(5) Industrial health-related education

In order to have workers correctly understand the abovementioned three types of management, industrial health-related education should be provided upon hiring, upon changing work content, and upon assigning dangerous and injurious work, continuously in a planned manner. It is also important to provide education to persons in managerial positions, not only to workers.

3. Obligation to Consider Workers' Safety (Health)

Normally, workers engage in work in a place as designated by the employer, using facilities and equipment provided by the employer. Therefore, an employer is naturally supposed to have obligation to protect workers and consider their safety including their mental and physical health, in accordance with the principle of good faith under a labor contract, even if such obligation is not concretely specified therein (Article 5 of the Labor Contracts Act). Required measures are not uniformly defined but respective employers are required to give necessary consideration in accordance with the job type, content of labor and place of proving labor of each worker.

Concrete measures to be taken by employers are prescribed in the Industrial Safety and Health Act and other related laws and regulations, and employers must naturally observe these measures.

< Reference >

Japan Ground Self-Defense Force Case seeking compensation for damages
Judgment of the Third Petty Bench of the Supreme Courte rendered on February 25, 1975
"It should be construed that the national government assumes the obligation to give consideration to protect the lives and health, etc. of public employees when managing the place for public services or installing and managing facilities and equipment for public services or when managing public services fulfilled by public employees under instructions of the national government or their superiors (hereinafter such obligation is referred to as 'obligation to consider safety')." "Such obligation to consider safety is generally deemed as the obligation that one party who has come to have special social contact with the other party under a certain legal relationship assumes against that other party as the obligation accompanying the relevant legal relationship, in accordance with the principle of good faith."

Kawayoshi Case seeking compensation for damages
Judgment of the Third Petty Bench of the Supreme Courte rendered on April 10, 1984
"An employment contract is a bilateral contract for value basically stipulating a worker's provision of labor and an employer's payment of rewards. In normal cases, a worker is assigned to a place designated by the employer and provides labor using facilities and equipment provided by the employer. Therefore, it is reasonable to construe that an employer is not only obliged to pay rewards but also obliged to give consideration to protect the life and health, etc. of a worker in the process wherein the worker provides labor using the place, facilities or equipment installed for labor provision under instructions of the employer (hereinafter such obligation is referred to as 'obligation to consider safety')."

II. Industrial Safety and Health Management System

The Industrial Safety and Health Act requires an employer to establish an industrial safety and health management system as follows, including the appointment of general safety and health managers.

Workplaces are required to appoint a general safety and health manager and other staff as follows in accordance with the industry type and the number of regularly employed workers.

Industry type I	Number of regularly employed workers		
	10 to 49	50 or more	100 or more
Forestry Mining Construction Transportation Cleaning	Safety and health promoter	Safety officer; Health officer Industrial physician	General safety and health manager; Safety officer; Health officer; Industrial physician

Industry type II	Number of regularly employed workers		
	10 to 49	50 or more	300 or more
Manufacturing (including processing) Electric power supply, gas supply, heat supply and water supply Telecommunications Wholesale and retail Wholesale and retail of furniture, fittings and fixtures, etc. Retail of fuel Hotels Golf courses Automotive servicing and mechanical servicing	Safety and health promoter	Safety officer; Health officer; Industrial physician	General safety and health manager; Safety officer; Health officer; Industrial physician

Industry type III	Number of regularly employed workers		
	10 to 49	50 or more	1,000 or more
Others	Health promoter	Health officer; Industrial physician	General safety and health manager; Health officer; Industrial physician

1. General Safety and Health Manager

As indicated in the table above, workplaces in industry type I with 100 or more regularly employed workers, workplaces in industry type II with 300 or more regularly employed workers, and workplaces in industry type III with 1,000 or more regularly employed workers must appoint a general safety and health manager and have that manager lead safety officers and health officers and generally manage [i] matters pertaining to measures for the prevention of the dangers or health impairment of workers, [ii] matters pertaining to the provision of education on the safety and health of workers, [iii] matters concerning the implementation of medical

examinations, and follow-up measures based thereon, management of the working environment, health guidance, and promotion of maintenance of workers' health, and [iv] matters pertaining to investigations of the causes of industrial accidents and the measures for preventing the recurrence of such accidents (Article 10 of the Industrial Safety and Health Act).

When having appointed a general safety and health manager, a workplace must report that fact by using the prescribed form (Form 3 of the Regulation on Industrial Safety and Health) to the Director-General of the competent Labour Standards Inspection Office.

2. Safety Officer

As indicated in the table above, workplaces in industry type I or II with 50 or more regularly employed workers must appoint a safety officer and have the officer take measures necessary for preventing industrial accidents (Article 11 of the Industrial Safety and Health Act).

A safety officer must be appointed from among those who fall under any of the following and have completed the training specified by the Minister of Health, Labour and Welfare (Article 5, item (i) of the Regulation on Industrial Safety and Health).

[i] A person who graduated a science course of a university or college of technology and has engaged in industry safety-related work for not less than two years

[ii] A person who graduated a science course of a high school and has engaged in industry safety-related work for not less than four years

[iii] A person who graduated a non-science course of a university or college of technology and has engaged in industry safety-related work for not less than four years

[iv] A person who graduated a non-science course of a high school and has engaged in industry safety-related work for not less than six years

[v] A person who has engaged in industry safety-related work for not less than seven years and has completed certain training sessions

When having appointed a safety officer, a workplace must report that fact by using the prescribed form (Form 3 of the Regulation on Industrial Safety and Health) to the Director-General of the competent Labour Standards Inspection Office.

3. Health Officer

Workplaces with 50 or more regularly employed workers must appoint a health officer and have the officer patrol the workplace at least once a week and take measures necessary for preventing health impairment of workers (Article 12 of the Industrial Safety and Health Act and Article 11 of the Regulation on Industrial Safety and Health).

A health officer is to be appointed from among physicians or persons having a health officer's license.

When having appointed a health officer, a workplace must report that fact by using the prescribed form (Form 3 of the Regulation on Industrial Safety and Health) to the Director-General of the competent Labour Standards Inspection Office.

4. Safety and Health Promoter (Health Promoter)

As indicated in the table above, workplaces in industry type I or II with 10 to 49 regularly employed workers must appoint a safety and health promoter and have that person take charge of duties concerning industrial safety and health, and workplaces in industry type III of the same size must appoint a health promoter and have that person take charge of duties concerning industrial health (Article 12-2 of the Industrial Safety and Health Act).

A safety and health promoter and health promoter are to be appointed from among persons who have engaged in industry safety and health-related work for not less than five years.

Concrete duties of a safety and health promoter and health promoter are as follows (for health promoter, limited to duties relating to industrial health).

[i] Matters pertaining to inspections of facilities and equipment (including safety systems, industrial health-related facilities, protective equipment, etc.) and checking of their use status, and necessary measures based on the results of those inspections and checking

[ii] Matters pertaining to inspections of the working environment (including working environment measurement) and work methods, and necessary measures based on the results of those inspections

[iii] Matters pertaining to medical examinations and measures for maintenance and promotion of workers' health

[iv] Matters pertaining to industrial safety and health-related education

[v] Matters pertaining to emergency measures in the event of abnormal circumstances

[vi] Matters pertaining to investigations of the causes of industrial accidents and the measures for preventing the recurrence of such accidents

[vii] Matters pertaining to collection of industrial safety and health-related information and creation of statistics on industrial accidents, diseases, various types of leave, etc.

[viii] Matters pertaining to reports and notifications relating to industrial safety and health to be filed with relevant administrative organs

A safety officer or health officer is a person who manages technical matters in industrial safety and health-related services and is positioned as a person with the authority and responsibility in managing those services, while a safety and health promoter or health promoter is positioned as a person who takes charge of those services under direction of a person with the authority and responsibility.

5. Industrial Physician

Workplaces with 50 or more regularly employed workers must appoint an industrial physician and have the physician manage the health of the workers (Article 13 of the Industrial Safety and Health Act).

When having appointed an industrial physician, a workplace must report that fact by using the prescribed form (Form 3 of the Regulation on Industrial Safety and Health) to the Director-General of the competent Labour Standards Inspection Office.

An employer who has appointed an industrial physician must provide him/her with the following information as necessary information for properly managing workers' health, such as their working hours (Article 13, paragraph (4) of the Industrial Safety and Health Act).

[i] Information on the details of the measures that the employer has already taken or intends to take under the provisions of Article 66-5, paragraph (1), Article 66-8, paragraph (5) (including the case where applied mutatis mutandis by replacing the terms pursuant to Article 66-8-2, paragraph (2) of the Act) or Article 66-10, paragraph (6) of the Act (when the employer does not take these measures, that fact and the reasons therefor)

[ii] Information on names of the workers whose excess working hours as prescribed in Article 52-2, paragraph (1) or Article 52-7-2, paragraph (1) of the Regulation on Industrial Safety and Health exceeded 80 hours per month and on the relevant excess working hours of such workers

[iii] In addition to the information mentioned in [i] and [ii] above, information on workers' duties that the industrial physician finds necessary for properly managing their health

An industrial physician may give an employer recommendations as needed for securing workers' good health, and an employer who received any recommendations must respect them (Article 13, paragraph (5) of the Industrial Safety and Health Act).

An employer who received any recommendations from an industrial physician must report the details of the recommendations and measures that the employer has taken or intends to take based on the recommendations (when the employer does not take any measures, that fact and the reasons therefor) to a health committee or a safety and health committee without delay after receiving the recommendations (Article 13, paragraph (6) of the Industrial Safety and Health Act).

Concrete duties of an industrial physician relate to the following matters which require specialized medical knowledge (Article 14, paragraph (1) of the Regulation on Industrial Safety and Health).

[i] Matters pertaining to the implementation of medical examinations and measures for maintaining workers' health based on the results thereof

[ii] Matters pertaining to the implementation of the face-to-face guidance prescribed in Article 66-8, paragraph (1) of the Industrial Safety and Health Act and the necessary measures prescribed in Article 66-9 of the same Act, and measures for maintaining workers' health based on the results thereof

[iii] Matters pertaining to the implementation of the test for ascertaining workers' levels of psychological burdens prescribed in Article 66-10, paragraph (1) of the same Act (stress check), the implementation of the face-to-face guidance prescribed in paragraph (3) of the same Article, and measures for maintaining workers' health based on the results thereof

[iv] Matters pertaining to the maintenance and management of the working environment

[v] Matters pertaining to the management of work

[vi] In addition to [i] to [v] above, matters pertaining to the management of workers' health

[vii] Matters pertaining to health education, health guidance and other measures for promoting and maintaining workers' health

[viii] Matters pertaining to industrial health-related education

[ix] Matters pertaining to investigations of the causes of the impairment of workers' health and the measures for preventing the recurrence of such impairment

An industrial physician manages the health of workers as an expert of industrial medical science and can give recommendations to a general safety and health manager with regard to the manager's duties and can also provide a health officer with necessary advice and guidance (Article 14, paragraph (3) of the Regulation on Industrial Safety and Health).

Furthermore, an industrial physician needs to patrol the relevant workplaces, etc. at least once a month(*) in order to surely fulfil his/her duties and when he/she finds any risk of harmfulness in work methods or sanitary conditions, he/she must immediately take necessary measures for preventing the impairment of workers' health (Article 15 of the Regulation on Industrial Safety and Health).

(*) When an industrial physician receives the following information [i] to [iii] from an employer every month and has obtained consent from the employer, it suffices to conduct patrols at least once every two months.

[i] Results of a weekly patrol by a health officer

[ii] Information that the employer decided to provide to the industrial physician through the investigations and deliberations by the health committee, etc.

[iii] When having had workers work more than 40 hours per week, excluding rest periods, names of the workers whose excess working hours exceeded 80 hours per month and information on those excess working hours of respective workers

Workplaces with less than 50 regularly employed workers are not required to appoint an industrial physician, but have to make efforts for workers' health management by such means as appointing a physician or public health nurse who has medical knowledge necessary for managing workers' health or utilizing local offices (Regional Industrial Health Centers) of the Industrial Health Total Support Center, which are established nationwide, for the management in full or in part.

6. Safety Committee and Health Committee

Workplaces with 50 or more regularly employed workers need to establish a health committee to have it investigate and deliberate on [i] matters pertaining to the basic measures for preventing the impairment of workers' health, [ii] matters pertaining to the basic measures for promoting and maintaining workers' health, [iii] matters pertaining to investigations of the causes of industrial accidents and the measures for preventing the recurrence of such accidents that pertain to industrial health, and [iv] other significant matters pertaining to the prevention of the impairment of workers' health and promotion and maintenance of workers' health (Article 18 of the Industrial Safety and Health Act).

Additionally, workplaces listed in the following table also need to establish a safety committee to have it investigate and deliberate on [i] matters pertaining to the basic measures for preventing dangers to workers, [ii] matters pertaining to investigations of the causes of industrial accidents and the measures for preventing the recurrence of such accidents that pertain to industrial safety, and [iii] other significant matters pertaining to the prevention of dangers to workers (Article 17 of the Industrial Safety and Health Act).

Half of the members other than the chair of a safety committee and a health committee need to be appointed based on recommendations of a labor union consisting of the majority of the workers or a person representing the majority of the workers. Workplaces which are required to establish both a safety committee and a health

committee may establish a safety and health committee in lieu of the respective committees (Article 19 of the Industrial Safety and Health Act).

A safety committee and a health committee must be convened at least once every month.

< Workplaces that are required to establish a safety committee >

Industry type	Number of regularly employed workers
Forestry; Mining; Construction; Manufacture of lumber and wood product; Chemical; Iron and steel, Manufacture of metal products; Manufacture of transportation machinery and equipment; Road transportation; Port and harbor transportation; Automobile maintenance; Machine repair; and Cleaning	50 or more
Transportation (excluding those listed in the upper column); Manufacturing (excluding those listed in the upper column); Electric power supply; Gas supply; Heat supply; Water supply; Telecommunications; Wholesale; Wholesale of furniture, fittings and fixtures, etc.; Retail; Retail of furniture, fittings and fixtures; Retail of fuel; Hotels; and Golf courses	100 or more

III. Health Management

1. Medical Examinations

Medical examinations conducted in workplaces are important for early detection and prevention of workers' diseases and also helpful in making judgments upon employment and later assignment of workers. Employers must conduct medical examinations and workers must receive medical examinations conducted by their employers. However, this does not apply when a worker refuses to receive an examination by a physician or dentist designated by his/her employer but has received a medical examination by another physician or dentist and submits a document proving the results of that medical examination.

Matters to note regarding medical examinations under laws and regulations are as follows (Article 66 of the Industrial Safety and Health Act and Articles 43, 44, and 45 of the Regulation on Industrial Safety and Health).

(1) Timing of conducting medical examinations

An employer must conduct medical examinations for its workers upon hiring and once every year thereafter (for workers engaging in work including night work, once within every six months).

(2) Coverage

Medical examinations must be conducted for regularly employed workers. With regard to part-time workers, medical examinations are mandatory for those who are scheduled to work continuously for one year or longer (for workers engaging in work including night work, continuously for six months or longer)

and those who have been working continuously for one year or longer (for workers engaging in work including night work, continuously for six months or longer) and whose regular weekly working hours are not shorter than three-quarters of those of ordinary workers.

(3) Medical examination items

Medical examination items are as follows.

[i] Questions on medical and work histories

[ii] Examination of subjective and objective symptoms

[iii] Measurement of height, weight, waist circumference, eyesight and hearing

[iv] Chest X-ray examination and sputum examination

[v] Blood-pressure measurement

[vi] Anemia test

[vii] Liver function test

[viii] Blood lipid level test

[ix] Blood sugar test

[x] Urine test

[xi] Electrocardiogram examination

From among these, examinations of the following items for the following workers may be omitted in periodical medical examinations if a physician finds them unnecessary.

Item	Workers who can be excluded
Measurement of height	Workers aged 20 or older
Measurement of waist circumference	1. Workers aged under 40 (excluding those aged 35) 2. Pregnant female workers or other workers for whom it has been found that their waste circumferences do not reflect the accumulation of visceral fat 3. Workers whose BMI is less than 20 4. Workers whose BMI is less than 22 and who had conducted measurement individually and reported the measurement results (*BMI = Weight (kg) / Height × Height (m))
Chest X-ray examination	Workers aged under 40 who do not fall under any of the following 1. Workers aged 20, 25, 30 and 35 2. Workers working at a facility, etc. subject to the obligation of periodical examinations for tuberculosis under the Infectious Disease Act 3. Workers who are required to receive pneumoconiosis examinations once every three years under the Pneumoconiosis Act
Sputum examination	1. Workers exempted from Chest X-ray examination 2. Workers the results of whose Chest X-ray examination show no lesions 3. Workers who were diagnosed as being unlikely to develop tuberculosis as a result of Chest X-ray examination
Anemia test; Liver function test; Blood lipid level test; Blood sugar test; and Electrocardiogram examination	Workers aged under 40 (excluding those aged 35)

A hearing test should be conducted using a pure-tone audiometer (at 1,000 Hz and 4,000 Hz), in principle, but any methods as approved appropriate by a physician may be employed for workers aged under 40, except for those aged 35 and 40.

With regard to medical examinations for workers engaging in specified duties including night work, which must be conducted once within every six months, the following tests and examination may also be omitted, in addition to those listed in the table above.

Item	Workers who can be excluded
Anemia test; Liver function test; Blood lipid level test; Blood sugar test; and Electrocardiogram examination	Workers who received these tests in the preceding medical examinations (within six months) and for whom a physician finds no need to conduct these tests

(4) Notification of medical examination results

An employer must notify a worker of the results of the medical examinations (Article 66-6 of the Industrial Safety and Health Act). A notification must cover not only the general health assessment results but also test results of respective items. Notification methods are as follows.

A. Deliver a statement of the individual examination results to each worker

B. Present a copy of a necessary part of the individual medical examination sheet

(5) Follow-up measures after medical examinations

If there is any worker who is diagnosed as having abnormalities as a result of medical examinations (including medical examinations based on the provisions of Article 66-2 of the Industrial Safety and Health Act that a worker engaging in night work voluntarily received (voluntary medical examinations) and follow-up medical examinations based on the provisions of Article 26, paragraph (2), item (i) of the Industrial Accident Compensation Insurance Act), an employer must take into account opinions that he/she heard from a physician or dentist (hereinafter referred to as a "physician, etc.") concerning measures necessary for maintaining the health of the relevant worker (Article 66-4 of the Industrial Safety and Health Act), and when he/she finds it necessary, the employer must take measures appropriately, including changing the location of work, changing the work content, shortening the working hours, reducing the frequency of night work, or transferring the worker to a day-shift position, in consideration of the circumstances of the relevant worker, along with conducting working environment measurements, installing or improving facilities or equipment, and reporting the opinions of the physician, etc. to the health committee, etc. (Article 66-5 of the Industrial Safety and Health Act).

Concrete measures are presented in the "Guidelines on Measures to be Taken by Employers Based on Medical Examination Results" (Public Notice of October 1, 1996).

(6) Submission of voluntary medical examination results

As night work (meaning work from 22:00 to 5:00, in principle) is highly likely to affect the health of workers, a worker who engaged in night work four times or more per month may submit a document

certifying the results of a medical examination he/she received voluntarily to his/her employer (Article 66-2 of the Industrial Safety and Health Act and Articles 50-2 and 50-3 of the Regulation on Industrial Safety and Health).

(7) Follow-up medical examination benefits system

This is a system to provide follow-up medical examinations and specified health guidance as follow-up medical examination benefits covered by the industrial accident insurance upon a request by a worker who was diagnosed as having abnormalities in all of the following tests and measurement, which relate to brain and cardiac diseases, as a result of the latest periodical medical examinations conducted based on the Industrial Safety and Health Act.

A. Blood-pressure measurement

B. Blood lipid level test

C. Blood sugar test

D. Measurement of waist circumference or BMI (degree of obesity)

(8) Hearing of opinions of physicians, etc. on medical examination results

An employer must hear the opinions of a physician, etc. on medical examination results (limited to those relating to workers who were diagnosed as having abnormalities in any items of the relevant medical examinations) (Article 66-4 of the Industrial Safety and Health Act).

A. Physician, etc. from whom an employer hears the opinions

In a workplace subject to the obligation to appoint an industrial physician, it is appropriate to hear the opinions from such industrial physician as he/she is supposed to be able to ascertain the health conditions, work content and working environment of respective workers in detail.

In a workplace exempted from such obligation, it is appropriate to hear the opinions from a physician, etc. who has medical knowledge necessary for managing workers' health, etc.

B. Content of the opinions

An employer needs to hear the opinions of a physician, etc. concerning the necessity of taking measures concerning workers' working patterns, details of the required measures, or the like.

[i] Opinions on working pattern classifications and details thereof

An employer should ask for judgments of a physician, etc. with regard to the relevant worker's working pattern and details thereof as exemplified as follows.

Working pattern		Details of the required measures
Classification	Details	
Normal work	Can work a normal schedule	
Limitation on work	Need limitation on work	In order to reduce burdens due to work, it is necessary to take such measures as shortening working hours, limiting business trips, limiting overtime work, limiting workload, changing work content, changing work location, reducing the frequency of night work, or transferring to a day-shift position.

Absence required	Need absence from work	It is necessary to take measures to suspend work for a certain period of time in a form of days off or absence from work for the purpose of medical treatment.

[ii] Opinions on the management of work and the working environment

When medical examination results revealed the necessity to review the management of work and the working environment, an employer should seek opinions of a physician, etc. concerning the implementation of working environment measurements, installation or improvement of facilities or equipment, improvement of work methods and other appropriate measures.

C. Method and timing of hearing opinions

An employer should ask a physician, etc. to enter his/her opinions concerning measures to be taken in the "Opinions of Physicians, etc." section in an individual's medical examination sheet based on the Regulation on Industrial Safety and Health, etc.

It is preferable to hear the opinions of physicians, etc. promptly.

(9) Health guidance

In order to promote workers' voluntary efforts to manage their health, an employer must endeavor to provide health guidance by a physician or a health nurse for workers who are especially deemed necessary to maintain their health according to medical examination results pursuant to the provisions of Article 66-7, paragraph (1) of the Industrial Safety and Health Act.

(10) Preparation of individuals' medical examination sheets

An employer must prepare individuals' medical examination sheets based on medical examination results and preserve them for five years (Article 103 of the Industrial Safety and Health Act and Article 51 of the Regulation on Industrial Safety and Health). When a workplace with 50 or more regular employed workers conducted periodical medical examinations, a report of the periodical medical examination results must be submitted to the Director-General of the competent Labour Standards Inspection Office without delay (Article 100 of the Industrial Safety and Health Act and Article 52 of the Regulation on Industrial Safety and Health).

2. Face-to-Face Guidance by a Physician for Workers Working Long Hours

Prolonged work, which increases burdens on workers and reduces their chances to have sufficient sleep and rest, is considered to be one of the major causes of workers' accumulated fatigue.

Therefore, Articles 66-8, 66-8-2, 66-8-4 and 66-9 of the Industrial Safety and Health Act provide that an employer must provide face-to-face guidance by a physician to a worker who is considered to have accumulated fatigue due to prolonged work.

Face-to-face guidance by a physician aims to ascertain the health conditions of workers working long hours with higher risks of generating health impairment, provide such workers with guidance according to their respective health conditions, and take follow-up measures based on the results of the guidance.

A. An employer must ascertain each worker's working hours based on an objective means, such as records on a time card (or based on self-report under unavoidable circumstances) (Article 66-8-3 of the Industrial Safety and Health Act).

B. When a worker's weekly working hours in excess of 40 hours exceeded 80 hours per month and the worker is found to have accumulated fatigue, an employer must provide him/her with face-to-face guidance by a physician in response to his/her request (Article 66-8 of the Industrial Safety and Health Act) (excluding workers who have received face-to-face guidance within one month and for whom a physician finds no need for another face-to-face guidance).

   [i] Excess weekly working hours must be calculated at least once a month by specifying a base date.

   [ii] A physician checks a worker's working situations, accumulation of fatigue, and other mental and physical statuses (including the aspect of mental health) and provides him/her with necessary guidance.

   [iii] An employer must hear the opinions of a physician concerning measures necessary for maintaining the health of a worker who has received face-to-face guidance.

   [iv] An employer must take into account the opinions of a physician, and when he/she finds it necessary, the employer must take measures appropriately, including changing the location of work, changing the work content, shortening the working hours, or reducing the frequency of night work, in consideration of the circumstances of the relevant worker, along with reporting the opinions of the physician to the health committee, etc.

C. With regard to a worker engaging in duties prescribed in Article 36, paragraph (11) of the Labor Standards Act, when his/her weekly working hours in excess of 40 hours exceeded 100 hours per month, an employer must provide him/her with face-to-face guidance by a physician (Article 66-8-2 of the Industrial Safety and Health Act) (excluding workers who have received face-to-face guidance within one month and for whom a physician finds no need for another face-to-face guidance).

   [i] Excess weekly working hours must be calculated at least once a month by specifying a base date.

   [ii] A physician checks a worker's working situations, accumulation of fatigue, and other mental and physical statuses (including the aspect of mental health) and provides him/her with necessary guidance.

   [iii] An employer must hear the opinions of a physician concerning measures necessary for maintaining the health of a worker who has received face-to-face guidance.

   [iv] An employer must take into account the opinions of a physician, and when he/she finds it necessary, the employer must take measures appropriately, including changing the location of work, changing the content of the duties, granting paid leave (excluding paid leave under Article 39 of the Labor Standards Act), shortening the working hours, or reducing the frequency of night work, in consideration of the circumstances of the relevant worker, along with reporting the opinions of the physician to the health committee, etc.

D. When the time requiring health management for a worker engaging in work under Article 41-2, paragraph (1) of the Labor Standards Act exceeded 100 hours per month, an employer must provide him/her with face-to-face guidance by a physician (Article 66-8-4 of the Industrial Safety and Health Act) (excluding

workers who have received face-to-face guidance within one month and for whom a physician finds no need for another face-to-face guidance).

[i] Excess weekly working hours must be calculated at least once a month by specifying a base date.

[ii] A physician checks a worker's working situations, accumulation of fatigue, and other mental and physical statuses (including the aspect of mental health) and provides him/her with necessary guidance.

[iii] An employer must hear the opinions of a physician concerning measures necessary for maintaining the health of a worker who has received face-to-face guidance.

[iv] An employer must take into account the opinions of a physician, and when he/she finds it necessary, the employer must take measures appropriately, including changing the content of the duties or granting paid leave (excluding paid leave under Article 39 of the Labor Standards Act), in consideration of the circumstances of the relevant worker, along with reporting the opinions of the physician to the health committee, etc.

E. An employer must also endeavor to provide face-to-face guidance or take other equivalent measures for workers falling under [i] or [ii] below (Article 66-9 of the Industrial Safety and Health Act and Article 52-8 of the Regulation on Industrial Safety and Health).

[i] A worker who is found to have accumulated fatigue due to prolonged work (when his/her weekly working hours in excess of 40 hours exceeded 80 hours per month) or who has some health concerns (in response to a request of the worker)

[ii] A worker falling under the criteria individually specified by the workplace

- Examples of criteria individually specified by the workplace -

・Provide face-to-face guidance to all workers whose weekly working hours in excess of 40 hours exceed 80 hours per month

・Provide face-to-face guidance to workers whose weekly working hours in excess of 40 hours exceed 45 hours per month for whom an industrial physician finds a need for face-to-face guidance

・Submit information on the working environment and working hours, etc. of workers whose weekly working hours in excess of 40 hours exceed 45 hours per month to an industrial physician, from whom the employer receives advice and guidance

Please refer to the Public Notice titled "Comprehensive Measures for Preventing Health Impairment due to Overwork" (Kihatsu No.0317008 of March 17, 2006 (revised by No. 11 of Kihatsu No.0401 and No. 4 of Kokinhatsu No.0401 of April 1, 2020)).

Comprehensive Measures for Preventing Health Impairment due to Overwork

1. Purpose

Overwork for long hours is considered to be the most significant contributing factor of workers' accumulated fatigue and its strong relevance to brain and cardiac diseases has been medically ascertained. It is unacceptable that workers suffer health impairment due to work. In light of such medical knowledge, it is important to eliminate overwork for long hours that does not allow workers to recover from fatigue and also take appropriate measures for workers' health management so that workers do not accumulate fatigue.

The Ministry of Health, Labour and Welfare has promoted required measures based on the Public Notice titled "Comprehensive Measures for Preventing Health Impairment due to Overwork" (hereinafter referred to as the "Former Comprehensive Measures") since February 2002, and based on the Public Notice titled "Concerning Comprehensive Measures for Preventing Health Impairment due to Overwork" (Kihatsu No. 0317008 dated March 17, 2006), which was newly established after the abolition of the Former Comprehensive Measures (hereinafter referred to as the "Comprehensive Measures"). However, amid progressing diversification of working styles, problems directly linked to workers' lives and daily living, such as increased health impairment due to prolonged work, had become more and more serious. In response to those problems, the stress check system was introduced in December 2015 as primary prevention measures against workers' mental impairment.

Additionally, in order to prevent overwork death, which has been one of the serious social problems, the Act Promoting Measures to Prevent Death and Injury from Overwork (Act No. 100 of 2014) was enacted by Diet members and was put into force on November 1, 2014. The Outline on Measures to Prevent Death and Injury from Overwork, which was compiled based on the Act and was decided at the Cabinet meeting on July 24, 2018, provides for five approaches to be promoted intensively, namely actions by the labor administration agency, etc., investigations and research, awareness-raising activities, development of the counseling system, and assistance for activities of private organizations.

Furthermore, based on the Act on the Arrangement of Related Acts to Promote Work Style Reform (Act No. 71 of 2018), which aims to facilitate correction of long working hours or otherwise promote work style reform, the Labor Standards Act (Act No. 49 of 1947), Industrial Safety and Health Act (Act No. 57 of 1972), Act on Special Measures for Improvement of Working Hours Arrangements (Act No. 90 of 1992), etc. were amended and were enforced on April 1, 2019, except for some provisions. These legal amendments newly imposed regulations on the upper limits for overtime work with punishments, strengthened requirements to provide face-to-face guidance by physicians to workers working long hours, and introduced the obligation for employers to make efforts to develop a system to secure an interval between work shifts.

The Comprehensive Measures specify measures to be taken by employers (meaning the Attachment "Measures to be Taken by Employers for Preventing Health Impairment due to Overwork"; hereinafter the same) based on the purport of the amendment of the Labor Standards Act, Industrial Safety and Health Act and other Acts, while taking into account the consistency and compliance with measures based on the Former Comprehensive Measures, and also compile measures required for the national government, such as dissemination activities and guidance, etc., for ensuring proper implementation of those specified measures, with the aim of preventing health impairment due to overwork.

2. Dissemination of measures, etc. to be taken by employers for preventing health impairment due to overwork

Prefectural Labour Bureaus and Labour Standards Inspection Offices should endeavor to disseminate the details of the required measures broadly among employers by setting campaign months, etc. and using leaflets and other media on various occasions of group guidance, individual guidance, or guidance targeting supervisors or the like.

For this purpose, related trade associations, the Industrial Health Total Support Center and its regional offices, and Regional Work Style Reform Promotion Support Centers are to be fully utilized.

3. Guidance at Labour Standards Inspection Offices for preventing health impairment due to overwork

(1) Guidance on strict observance of the limits on overtime work and work on days off in an agreement under Article 36

A. Upon receiving a notification of an agreement under Article 36 of the Labor Standards Act (hereinafter referred to as an "agreement under Article 36"), the Labour Standards Inspection Office will strictly provide guidance as follows.

(A) With regard to an agreement under Article 36 wherein stipulated working hours exceed the upper limits prescribed in Article 36, paragraph (3) of the Labor Standards Act (hereinafter referred to as the "upper limits"), the Labour Standards Inspection Office will provide guidance so that the upper limits are to be observed. In particular, guidance is to be provided by using leaflets, etc. to attract

attention to the fact that cases where an employer may have workers work overtime or on days off in excess of the upper limits must be specified as concretely as possible and that ambiguous clauses using such expressions as "due to an operational necessity" or "under unavoidable circumstances," which may lead to constant long working hours, may not be accepted.

(B) From the perspective of preventing health impairment due to overwork, guidance is to be provided by using leaflets, etc. to ensure that when providing for the number of hours for permissible overtime work or work on days off in excess of the upper limits in an agreement under Article 36, efforts should be made to reduce the excess hours as close to the upper limits as possible, and to minimize the frequency and hours of work on days off.

(C) Even in the case of an agreement under Article 36 in compliance with the extension limits that makes it possible to have workers work overtime for 45 hours or more per month, guidance is to be provided by using leaflets, etc. to recommend the relevant company to keep actual hours of overtime work below 45 hours per month.

(D) In the case of an agreement under Article 36 that makes it possible to have workers work on days off, guidance is to be provided by using leaflets, etc. to recommend the relevant company to minimize days of holiday work.

B. With regard to an agreement under Article 36 wherein stipulated working hours exceed the upper limits, when the Labour Standards Inspection Office heard the circumstances also from a representative of the workers and found that labor-management deliberations had not been sufficient, the Labour Standards Inspection Office will also provide necessary guidance to the workers' side, which is the party to the agreement.

(2) Dissemination of information and guidance concerning discretionary work systems

Upon receiving a notification concerning a discretionary work system, the Labour Standards Inspection Office provides guidance by using leaflets, etc. on the details of the measures to be taken by employers.

(3) Measures for promoting voluntary efforts to improve working hours arrangements, etc.

For workplaces that are found to require improvements, such as the correction of especially long working hours, based on self-inspection, etc., the Labour Standards Inspection Office will utilize work-life balance improvement consultants in the efforts to correct long working hours and promote acquisition of annual paid leave, and will provide explanations on the purport of the work shift interval system to facilitate its introduction.

4. Guidance targeting supervisors for preventing health impairment due to overwork

Guidance is to be provided as follows for workplaces where hours of overtime work and work on days off (when having workers work more than 40 hours per week, excluding rest periods, meaning those excess hours; hereinafter the same) are highly likely to exceed 45 hours per month or for workers engaging in work under the provisions of Article 41-2, paragraph (1) of the Labor Standards Act (hereinafter referred to as "workers covered under the high-level professional system").

(1) Check the status of the appointment and activities of industrial physicians, health officers, health promoters and the status of the establishment and activities of a health committee, etc. and provide necessary guidance

(2) Check the status of implementation of medical examinations, hearing of physicians' opinions on medical examination results, follow-up measures after medical examinations and health guidance, etc. and provide necessary guidance

(3) Check the status of hours of overtime work of all workers including those covered under a discretionary work system and supervisors (excluding workers covered under the high-level professional system) (meaning the measures set forth in 5. (2) A. of the Attachment) and also check the status of provision of information on the excess working hours for workers whose total monthly hours of overtime work and work on days off exceeded 80 hours to an industrial physician and the status of notice given to the relevant workers (meaning the measures set forth in 5. (2) B. of the Attachment), pursuant to Article 66-8-3 of the Industrial Safety and Health Act, and also provide guidance to recommend face-to-face guidance, etc. (meaning face-to-face guidance by a physician and equivalent measures; hereinafter the same) for workers working long hours and measures thereafter (meaning the measures set forth in 5. (2) C. of the Attachment), based on Article 66-8, paragraph (1), Article 66-8-2, paragraph (1) or Article 66-9 of the Industrial Safety and Health Act

(4) Check the status of the development of procedures, etc. (meaning the measures set forth in 5. (2) D. of the Attachment) and provide necessary guidance so that the face-to-face guidance, etc. mentioned in (3) is implemented smoothly

(5) Check the measures to ascertain the time requiring health management, pursuant to Article 41-2, paragraph (1), item (iii) of the Labor Standards Act, and provide necessary guidance when face-to-face guidance to workers covered under the high-level professional system and measures thereafter (meaning the measures

set forth in 5. (3) C. of the Attachment) are not implemented based on Article 66-8-4, paragraph (1) or Article 66-9 of the Industrial Safety and Health Act

(6) Check the status of the development of procedures, etc. (meaning the measures set forth in 5. (3) D. of the Attachment) and provide necessary guidance so that the face-to-face guidance mentioned in (5) is implemented smoothly

(7) Check the status of the measures to secure days off based on Article 41-2, paragraph (1), item (iv) of the Labor Standards Act, the selective measures based on item (v) of the same paragraph, and the measures to secure workers' health and welfare based on item (vi) of the same paragraph, and provide necessary guidance when these measures are not taken

(8) When an employer does not follow the recommendations on the face-to-face guidance, etc. mentioned in (3) or (5) (limited to measures set forth in 5. (2) C. (A) a. or b., (B) b. or c., and 5. (3) C. (A) b. of the Attachment), hear the opinions of a medical advisor in industrial health based on the relevant worker's working environment, working hours, the frequency and hours of night work, past medical examination and face-to-face guidance results, and instruct the employer to conduct special medical examinations and provide strict guidance, pursuant to Article 66, paragraph (4) of the Industrial Safety and Health Act

(9) When it is difficult for a workplace with less than 50 regularly employed workers to individually appoint a physician and provide face-to-face guidance on such grounds as that there are no physicians with specialized knowledge in the vicinity, inform such workplace of the availability of a regional office of the Occupational Health Support Center (hereinafter referred to as a "Regional Industrial Health Center")

(10) When finding a situation where a test for ascertaining workers' levels of psychological burdens, face-to-face guidance by a physician for workers with high stress levels and measures thereafter (hearing of the opinions of the physician and implementation of operational measures based on such opinions) (these measures are collectively referred to as the "stress check system") have not been carried out, provide guidance to recommend proper implementation of these measures; On that occasion, provide advice and guidance on the method of overall mental health measures, including the stress check system, to ensure the implementation of required measures in light of the circumstances and need of respective workplaces, based on the guidelines for promoting maintenance of workers' mental health (Public Notice No. 6; 2015 Guidelines for Promoting Maintenance of Good Health)

For a workplace with less than 50 regularly employed workers, which is obliged to make efforts to introduce the stress test system, inform such workplace of the availability of subsidies for the stress check system provided by the Japan Organization of Occupational Health and Safety and face-to-face guidance by physicians of a Regional Industrial Health Center.

(11) Provide necessary guidance for curbing prolonged work also in cases other than the above, such as where overtime work in excess of the upper limits is found

5. Guidance to secure recurrence prevention measures in the event of a work-related disease due to overwork

(1) Guidance to secure recurrence prevention measures toward a workplace where a work-related disease due to overwork occurred

Provide such workplace with guidance to have it investigate the causes of the disease and take measures to prevent recurrence

(2) Strict actions including judicial punishments

Take strict actions including judicial punishments toward a workplace where a work-related disease due to overwork occurred and any violation to labor standard-related laws and regulations is found.

(Attachment)

Measures to be Taken by Employers for Preventing Health Impairment due to Overwork

1. Purpose

Overwork for long hours is considered to be the most significant contributing factor of workers' accumulated fatigue and its strong relevance to brain and cardiac diseases has been medically ascertained. It is unacceptable that workers suffer health impairment due to work. In light of such medical knowledge, it is important to eliminate overwork for long hours that does not allow workers to recover from fatigue and also take appropriate measures for workers' health management so that workers do not accumulate fatigue.

The Ministry of Health, Labour and Welfare has promoted required measures based on the Public Notice titled "Comprehensive Measures for Preventing Health Impairment due to Overwork" (hereinafter referred to as the "Former Comprehensive Measures") since February 2002, and based on the Public Notice titled "Concerning Comprehensive Measures for Preventing Health Impairment due to Overwork" (Kihatsu No. 0317008 dated March 17, 2006), which was newly established after the abolition of the Former Comprehensive Measures (hereinafter referred to as the "Comprehensive Measures"). However, amid progressing diversification of working styles, problems directly linked to workers' lives and daily living, such as increased health impairment due to prolonged work, had become more and more serious. In response to those problems, based on the Act on the Arrangement of Related Acts to Promote Work Style Reform (Act No. 71 of 2018), which aims to facilitate correction of long working hours or otherwise promote work style reform, the Labor Standards Act (Act No. 49 of 1947), Industrial Safety and Health Act (Act No. 57 of 1972), Act on Special Measures for Improvement of Working Hours Arrangements (Act No. 90 of 1992; hereinafter referred to as the "Improvement of Working Hours Arrangements Act"), etc. were amended and were enforced on April 1, 2019, except for some provisions. These legal amendments newly imposed regulations on the upper limits for overtime work with punishments, strengthened requirements to provide face-to-face guidance by physicians to workers working long hours, and introduced the obligation for employers to make efforts to develop a system to secure an interval between work shifts.

In consideration of such circumstances, these measures stipulate measures to be taken by employers as follows with the aim of preventing workers' health impairment due to overwork.

2. Reduction of hours of overtime work and work on days off

(1) Overtime work should be limited to temporary cases, and it is medically ascertained that the longer the hours of overtime work and work on days off (when having workers work more than 40 hours per week, excluding rest periods, meaning those excess hours; hereinafter the same) are in excess of 45 hours per month, the stronger the relevance observed between the work and brain and cardiac diseases becomes. Based on these facts, when concluding an agreement under Article 36 of the Labor Standards Act (hereinafter referred to as an "agreement under Article 36"), an employer must make the content of the agreement in compliance with the "Guidelines on Matters to Note Regarding Extension of Working Hours and Work on Days Off Specified in an Agreement Set forth in Article 36, Paragraph (1) of the Labor Standards Act" (Public Notice of the Ministry of Health, Labour and Welfare No. 323 of 2018), together with a labor union consisting of the majority of the workers or a person representing the majority of the workers.

It should also be noted that cases where an employer may have workers work overtime or on days off in excess of the upper limits prescribed in Article 36, paragraph (3) of the Labor Standards Act (hereinafter referred to as the "upper limits") must be specified as concretely as possible and that ambiguous clauses using such expressions as "due to an operational necessity" or "under unavoidable circumstances," which may lead to constant long working hours, may not be accepted. Additionally, efforts should be made to reduce the number of hours for permissible overtime work or work on days off in excess of the upper limits in an agreement as close to the upper limits as possible.

Furthermore, when an agreement makes it possible to have workers work overtime for 45 hours or more per month, an employer should endeavor to keep actual hours of overtime work below 45 hours per month. An employer should also endeavor to reduce days of holiday work.

(2) Based on the "Guidelines Concerning Measures to be Taken for Properly Ascertaining Working Hours" (Established on January 20, 2017), an employer should properly ascertain its workers' working hours.

(3) With regard to all workers including workers working under a discretionary work system and workers listed in the items of Article 41 of the Labor Standards Act (hereinafter referred to as "supervisors, etc.") but excluding workers engaging in work under Article 41-2, paragraph (1) of the Labor Standards Act (hereinafter referred to as "workers covered under the high-level professional system"), an employer should be aware of its responsibility to secure the health of workers by ascertaining the status of their working hours, based on Article 66-8-3 of the Industrial Safety and Health Act, and providing face-to-face guidance by a

physician, based on Article 66-8, paragraph (1) or Article 66-8-2, paragraph (1) of the same Act, and endeavor to take measures to call their attention to avoid overwork.

(4) With regard to workers covered under the high-level professional system, an employer should ascertain the time requiring health management under Article 41-2, paragraph (1), item (iii) of the Labor Standards Act, and take measures to secure days off under item (iv) of the same paragraph (hereinafter referred to as "measures to secure days off"), selective measures under item (v) of the same paragraph (hereinafter referred to as "selective measures"), and measures to secure workers' health and welfare under item (vi) of the same paragraph (hereinafter referred to as "measures to secure workers' health and welfare").

3. Promotion of workers' acquisition of annual paid leave

An employer should have workers surely take annual paid leave for five days per year by designating the timings, based on Article 39, paragraph (7) of the Labor Standards Act, and should promote workers' acquisition of annual paid leave by such means as developing a workplace environment to enable workers to easily take a leave and utilizing a method of systematic granting of annual paid leave, based on paragraph (6) of the same Article.

4. Improvement of working hours arrangements

The Guidelines on the Improvement of Working Hours Arrangements (Public Notice of the Ministry of Health, Labour and Welfare No.108 of 2008; hereinafter referred to as the "Improvement Guidelines") based on Article 4, paragraph (1) of the Improvement of Working Hours Arrangements Act stipulate matters necessary for employers and employer associations to properly make improvements in working hours arrangements, etc. (meaning making improvements in matters concerning working hours, the number of days off, timing of granting annual paid leave, frequency of night work, interval hours between the finishing time and the next starting time, and other working hour-related matters in response to diversifying working styles, while giving consideration to workers' health and personal lives). The Improvement Guidelines were amended accompanying the enforcement of the Act on the Arrangement of Related Acts to Promote Work Style Reform, and from the perspective of preventing health impairment due to overwork, an employer is required to make efforts to take necessary measures, while keeping in mind the Improvement of Working Hours Arrangements Act and the Improvement Guidelines.

In particular, the work shift interval system, which is newly prescribed as an obligation for employers to make efforts therefor in the Improvement of Working Hours Arrangements Act, is for securing workers' private hours and sleep hours and is expected to contribute to preventing health impairment due to overwork. An employer should endeavor to introduce the system into its workplaces.

5. Securing of measures for workers' health management

(1) Development of a health management system and implementation of medical examinations

A. Development of a health management system

(A) Based on the Industrial Safety and Health Act, an employer is required to develop a health management system by appointing industrial physicians, health officers, health promoters, etc. to have them appropriately fulfil duties concerning health management in respective workplaces.
In the case of a workplace with less than 50 regularly employed workers, an employer should utilize a regional office of the Occupational Health Support Center (hereinafter referred to as a "Regional Industrial Health Center").

(B) Based on Article 13 of the Industrial Safety and Health Act, etc., an employer should provide the following information to industrial physicians. In the case of a workplace with less than 50 regularly employed workers where an employer has appointed a physician or public health nurse (hereinafter referred to as a "physician, etc.") who has medical knowledge necessary for managing workers' health, based on Article 13-2 of the same Act, the employer should make efforts to provide the following information to a physician, etc.

a. Information on the details of the measures that the employer has already taken after medical examinations, the measures after face-to-face guidance for workers working long hours or workers covered under the high-level professional system, or the measures that the employer has taken or intends to take after face-to-face guidance based on the results of the test for ascertaining workers' levels of psychological burdens (when the employer does not take these measures, that fact and the reasons therefor)

b. Information on names of the workers whose hours of overtime work and work on days off exceeded 80 hours per month and on the relevant excess working hours of such workers, or when the time requiring health management (meaning the time totaling the hours during which a worker was in the workplace and the hours during which a worker worked outside the workplace pursuant to the provisions of Article 41-2, paragraph (1), item (iii) of the Labor Standards Act;

hereinafter the same) exceeded 40 hours per week, information on names of the workers covered under the high-level professional system whose excess working hours exceeded 80 hours per month and on the relevant excess working hours of such workers

c. In addition to the information mentioned in a. and b. above, information on workers' duties, such as working environment, working hours, working mode, workloads, the frequency and hours of night work, that the industrial physician finds necessary for properly managing their health

(C) Based on Article 13 of the Industrial Safety and Health Act, etc., an employer who received any recommendations from an industrial physician must report the details of the recommendations and measures that the employer has taken or intends to take based on the recommendations, or when the employer does not take any measures, that fact and the reasons therefor, to a health committee or a safety and health committee (hereinafter referred to as a "health committee, etc.") without delay after receiving the recommendations.

(D) Based on Article 13-3 of the Industrial Safety and Health Act, etc., an employer should develop a necessary system as follows so that an industrial physician, etc. can receive health consultation from workers and make responses appropriately.

a. An employer should disseminate information among workers with regard to the concrete details of services offered by an industrial physician, the method of making a request for health consultation with the industrial physician (including available dates and places for consultation), and the method employed by the industrial physician for handling information on workers' mental and physical conditions.

b. An employer who has appointed a physician, etc. should endeavor to disseminate information among workers with regard to the concrete details of services offered by a physician, etc., the method of making a request for health consultation with the physician, etc. (including available dates and places for consultation), and the method employed by the physician, etc. for handling information on workers' mental and physical conditions.

(E) Investigations and deliberations by a health committee, etc.

Based on Article 18 of the Industrial Safety and Health Act, etc., an employer should hold a health committee, etc. at least once a month.

The health committee, etc. should investigate and deliberate matters pertaining to face-to-face guidance for workers working long hours, etc. as listed below and on mental health measures for workers.

In the case of a workplace with less than 50 regularly employed workers, an employer should make efforts to give due consideration to the opinions of workers by such means as preparing opportunities to hear the opinions of related workers.

< Matters pertaining to face-to-face guidance, etc. (meaning face-to-face guidance by a physician and equivalent measures; hereinafter the same) for workers working long hours, etc. >

(For workers other than those covered under the high-level professional system)

a. Matters pertaining to the ascertaining of working hours of all workers including those covered under a discretionary work system and supervisors, etc.

b. Matters pertaining to the method and system of providing face-to-face guidance, etc.

c. Matters pertaining to the development of an environment to ensure that requests for face-to-face guidance, etc. are made appropriately

d. Matters pertaining to measures to prevent disadvantageous treatment of workers who make a request for face-to-face guidance, etc.

e. Matters pertaining to the criteria for the implementation of necessary measures to be established in workplaces when providing face-to-face guidance, etc.

f. Matters pertaining to the dissemination among workers of measures for preventing health impairment due to prolonged work to be taken in the workplace

(For workers covered under the high-level professional system (excluding the case where a committee prescribed in Article 41-2, paragraph (1) of the Labor Standards Act (hereinafter referred to as a "labor-management committee") conducts investigations and deliberations))

g. Matters pertaining to the ascertaining of the time requiring health management

h. Matters pertaining to the method and system of providing face-to-face guidance

i. Matters pertaining to the development of an environment to ensure that requests for face-to-face guidance are made appropriately

j. Matters pertaining to measures to prevent disadvantageous treatment of workers who make a request for face-to-face guidance

k. Matters pertaining to measures to secure days off, selective measures, and measures to secure workers' health and welfare

< Matters pertaining to mental health measures >

a. The following matters to be investigated and deliberated by a health committee, etc. as suggested in the guidelines for promoting maintenance of workers' mental health (Public Notice No. 6; 2015 Guidelines for Promoting Maintenance of Good Health; hereinafter referred to as the "Mental Health Guidelines")
   (a) Matters pertaining to the presentation of an employer's intention to actively promote mental healthcare
   (b) Matters pertaining to the formulation of a mental fitness plan
   (c) Matters pertaining to the development of a system to promote mental fitness
   (d) Matters pertaining to the ascertaining of problems in the workplace and implementation of mental healthcare
   (e) Matters pertaining to the securing of personnel necessary for implementing mental healthcare and the utilization of sources outside the workplace
   (f) Matters pertaining to the protection of workers' health information
   (g) Matters pertaining to the evaluation of the implementation status of a mental fitness plan and the review of a plan
   (h) Other matters pertaining to measures necessary for promoting workers' mental fitness
b. The following matters to be investigated and deliberated by a health committee, etc. as suggested in the guidelines on the implementation of the test for ascertaining workers' levels of psychological burdens and face-to-face guidance and on measures to be taken by employers based on the results of face-to-face guidance (Public Notice No. 3; Guidelines on the Test for Ascertaining Workers' Levels of Psychological Burdens, dated August 22, 2018; hereinafter referred to as the "Stress Check Guidelines")
   (a) Method of disseminating the purpose of the stress check system
   (b) System for implementing the stress check system
   (c) Method of implementing the stress check system
   (d) Method of compilation and analysis of the results of a stress check by group
   (e) Handling of information as to whether workers received a stress check or not
   (f) Method of preserving records of the results of a stress check
   (g) Purpose and method of using the results of a stress check, face-to-face guidance, and compilation and analysis of results by group
   (h) Methods of disclosing, correcting, adding and deleting information on a stress check, face-to-face guidance, and compilation and analysis of results by group
   (i) Method of processing complaints on the handling of information on a stress check, face-to-face guidance, and compilation and analysis of results by group
   (j) Workers' right to decide whether or not to receive a stress check
   (k) Prevention of disadvantageous treatment of workers

< Other matters >

a. The matters pertaining to rules on the handling of information on workers' mental and physical conditions to be decided by each workplace, as follows, that are to be investigated and deliberated by a health committee, etc. as suggested in the guidelines on measures to be taken by employers for ensuring proper handling of information on workers' mental and physical conditions (Public Notice No. 1, Guidelines on Proper Handling of Information on Workers' Mental and Physical Conditions, dated September 7, 2018; hereinafter referred to as the "Guidelines on Proper Handling of Health Information")
   (a) Purpose and method of handling information on mental and physical conditions
   (b) Personnel who handle information on mental and physical conditions and the authority vested thereto, and the scope of information on mental and physical conditions to be handled
   (c) Method of informing of the purpose of handling information on mental and physical conditions and method of obtaining consent of workers
   (d) Method of properly managing information on mental and physical conditions
   (e) Methods of disclosing, correcting (including addition and deletion of information), and suspending the use of (including deletion and suspension of information provision to a third party) information on mental and physical conditions
   (f) Method of providing information on mental and physical conditions to a third party
   (g) Matters pertaining to succession of information on mental and physical conditions upon business succession and organizational change
   (h) Method of processing complaints on the handling of information on mental and physical conditions

(i) Method of disseminating information on handling rules among workers

B. Implementation of medical examinations

(A) Implementation of medical examinations

Based on Article 66 to Article 66-7 of the Industrial Safety and Health Act, an employer should surely conduct medical examinations, hear the opinions of physicians on medical examination results, and take follow-up measures after medical examinations and provide health guidance, etc. In particular, it should be noted that medical examinations are required once within every six months for workers regularly engaging in work including night work. Upon hearing the opinions of physicians, it is appropriate for an employer to provide information, such as workers' working hours.

(B) Utilization of a voluntary medical examination system

An employer should make efforts to disseminate information about a voluntary medical examination system targeting workers engaging in night work, based on Article 66-2 of the Industrial Safety and Health Act, and a follow-up medical examination benefits system targeting workers who were diagnosed as having abnormalities in blood pressure or other examination items, based on Article 26 of the Industrial Accident Compensation Insurance Act (Act No. 50 of 1947). It should be noted that an employer who has received the submission of medical examination results from its worker under these systems also needs to take follow-up measures based on Article 66-5 of the Industrial Safety and Health Act.

C. Health education, etc.

Article 69 of the Industrial Safety and Health Act requires an employer to take measures for promoting and maintaining workers' health continuously in a planned manner.

(2) Face-to-face guidance, etc. targeting workers who engaged in overtime work for long hours or worked on days off (excluding workers covered under the high-level professional system)

A. Ascertaining of working hours

Based on Article 66-8-3 of the Industrial Safety and Health Act, an employer should ascertain each worker's working hours based on an objective means, such as records on a time card, hours of having used a PC or other electronic computational machine (hours from login time to logout time) or by any other appropriate means.

B. Provision of information on working hours to industrial physicians and workers

An employer should provide an industrial physician with information on names of the workers whose hours of overtime work and work on days off exceeded 80 hours per month and on the relevant excess working hours of such workers, and also provide information on the relevant excess working hours to those workers.

From the perspective of encouraging workers to ascertain their own working hours and personally control their health, when a worker whose hours of overtime work and work on days off do not exceed 80 hours per month requests disclosure of information on working hours, an employer should preferably respond to such request.

C. Provision of face-to-face guidance, etc.

(A) Based on Article 66-8 or Article 66-9 of the Industrial Safety and Health Act, an employer should provide face-to-face guidance, etc. as follows in accordance with the relevant worker's hours of overtime work and work on days off.

a. Surely provide face-to-face guidance by a physician for workers whose hours of overtime work and work on days off exceed 80 hours per month and who made a request

b. Endeavor to provide face-to-face guidance, etc. for workers whose hours of overtime work and work on days off exceed 80 hours per month (excluding those falling under a. above) even if they did not make a request

c. Preferably take measures such as face-to-face guidance, etc. for workers whose hours of overtime work and work on days off exceed 45 hours per month and for whom the need to consider their health is found

(B) Based on Article 66-8, Article 66-8-2, or Article 66-9 of the Industrial Safety and Health Act, with regard to workers engaging in the work prescribed in Article 36, paragraph (11) of the Labor Standards Act (hereinafter referred to as "workers engaging in research and development"), an employer should provide face-to-face guidance, etc. as follows in accordance with their hours of overtime work and work on days off.

a. Surely provide face-to-face guidance by a physician for workers engaging in research and development whose hours of overtime work and work on days off exceed 100 hours per month even if they did not make a request

b. Surely provide face-to-face guidance by a physician for workers engaging in research and development whose hours of overtime work and work on days off exceed 80 hours but do not exceed 100 hours per month and who made a request
c. Endeavor to provide face-to-face guidance, etc. for workers engaging in research and development whose hours of overtime work and work on days off exceed 80 hours but do not exceed 100 hours per month (excluding those falling under b. above) even if they did not make a request
d. Preferably take measures such as face-to-face guidance, etc. for workers engaging in research and development whose hours of overtime work and work on days off exceed 45 hours per month and for whom the need to consider their health is found

(C) Based on Article 66-8, paragraph (1), Article 66-8-2, paragraph (1), or Article 66-9 of the Industrial Safety and Health Act, an employer should take follow-up measures after face-to-face guidance, etc. as follows.

a. When providing face-to-face guidance by a physician as mentioned in (A) a. and (B) a. or b. above, hear the opinions of the physician, without delay, regarding measures necessary for maintaining the relevant worker's health based on the results of the guidance; In light of those opinions, take appropriate follow-up measures, if found necessary; Appropriate follow-up measures are as follows:

In a case mentioned in (A) a. or (B) b. above: change of workplaces, shift of work, shortening of working hours and reduction of the frequency of night work, etc.

In a case mentioned in (B) a. above: change of workplaces, change of duties, granting of annual paid leave, shortening of working hours and reduction of the frequency of night work, etc.

When hearing the opinions of the physician, the employer should provide information on the relevant worker's working hours, etc. (see 5. (1) A. (B) above)

b. When providing face-to-face guidance, etc. as mentioned in (A) b. or c. and (B) c. or d. above, endeavor to take measures equivalent to those described in (C) a. above, "In a case mentioned in (A) a. or (B) b. above"
c. When any disorder is found in the relevant worker's mental health as a result of the face-to-face guidance, etc., make responses by seeking advice from the physician or industrial physician, etc. who conducted face-to-face guidance, in collaboration with a psychiatrist, etc. as needed

D. Development of procedures for providing face-to-face guidance, etc.

(A) In order to appropriately provide the face-to-face guidance, etc. mentioned in C. above, an employer should investigate and deliberate the matters listed in a. to f. of 5. (1) (E) < Matters pertaining to face-to-face guidance, etc. for workers working long hours, etc. > above at a health committee, etc. and take necessary measures based on the results of those investigations and deliberations.

(B) When providing the face-to-face guidance mentioned in C. (A) a. or (B) b. above, an employer should take necessary measures, while including the following in the matters pertaining to the implementation method and system, and endeavor to disseminate them among workers from the perspective of enabling them to make requests easily.

a. Preparation of a form for making a request
b. Establishment of an office to accept requests

E. Responses to be made by workplaces with less than 50 regularly employed workers

Workplaces with less than 50 regularly employed workers also need to take measures as mentioned in (2) A. to D. above, but for provision of the face-to-face guidance, etc. mentioned in C. above, if it is difficult to individually appoint a physician and provide face-to-face guidance on such grounds as that there are no physicians with specialized knowledge in the vicinity, a Regional Industrial Health Center should be utilized.

Additionally, when developing procedures as mentioned in D. above, an employer of a workplace with less than 50 regularly employed workers should endeavor to utilize opportunities to hear the opinions of related workers prepared based on the provisions of Article 23-2 of the Regulation on Industrial Safety and Health (Order of the Ministry of Labour No.32 of 1972).

Face-to-face guidance by a Regional Industrial Health Center received by a worker as instructed by his/her employer is deemed to fall under face-to-face guidance by a physician designated by the employer prescribed in Article 66-8, paragraph (2) of the Industrial Safety and Health Act (including the case where applied mutatis mutandis pursuant to Article 66-8-2, paragraph (2) of the same Act). In this case, the employer must submit a document stating the relevant worker's working status (for example, the total working hours, hours of overtime work and work on days off, work content, etc. during the last one month) to the physician and record the results of the face-to-face guidance and preserve that record based on Article 52-6 of the Regulation on Industrial Safety and Health.

(3) Face-to-face guidance, etc. targeting workers covered under the high-level professional system

A. Ascertaining of the time requiring health management

An employer should ascertain each worker's working hours based on an objective means, such as records on a time card, hours of having used a PC or other electronic computational machine.

B. Provision of information on the time requiring health management to industrial physicians and disclosure of the time requiring health management to relevant workers

With regard to workers covered under the high-level professional system whose time requiring health management exceeded 40 hours per week, an employer should provide an industrial physician with information on names of the workers for whom those excess hours exceeded 80 hours per month and on the relevant excess working hours of such workers.

When a worker covered under the high-level professional system requests the disclosure of a record of his/her time requiring health management, an employer should disclose the relevant record to such worker.

C. Provision of face-to-face guidance

(A) Based on Article 66-8-4, paragraph (1) or Article 66-9 of the Industrial Safety and Health Act, an employer should provide face-to-face guidance as follows in accordance with the time requiring health management of the relevant worker covered under the high-level professional system.

a. Surely provide face-to-face guidance by a physician for workers covered under the high-level professional system whose time requiring health management exceed 40 hours per week and for whom those excess hours exceed 100 hours per month

b. Endeavor to provide face-to-face guidance by a physician for workers covered under the high-level professional system whose time requiring health management exceeds 40 hours per week and for whom those excess hours do not exceed 100 hours per month and who made a request

(B) Based on Article 66-8-4, paragraph (1) or Article 66-9 of the Industrial Safety and Health Act, an employer should take follow-up measures after face-to-face guidance, etc. as follows.

a. When providing face-to-face guidance by a physician as mentioned in (A) a. above, hear the opinions of the physician, without delay, regarding measures necessary for maintaining the health of the relevant worker covered under the high-level professional system based on the results of the guidance; in light of those opinions, take appropriate follow-up measures, such as change of duties, granting of annual paid leave, and consideration for reducing the time requiring health management, if found necessary

b. When providing face-to-face guidance as mentioned in (A) b. above, endeavor to take measures equivalent to those described in (A) a. above

c. When any disorder is found in the mental health of the relevant worker covered under the high-level professional system as a result of the face-to-face guidance, make responses by seeking advice from the physician or industrial physician, etc. who conducted face-to-face guidance, in collaboration with a psychiatrist, etc. as needed

D. Development of procedures for providing face-to-face guidance

(A) In order to appropriately provide the face-to-face guidance mentioned in C. above, an employer should investigate and deliberate the matters listed in g. to k. of 5. (1) (E) < Matters pertaining to face-to-face guidance, etc. for workers working long hours, etc. > above at a health committee, etc. (excluding the case where a labor-management committee conducts investigations and deliberations) and take necessary measures based on the results of those investigations and deliberations.

(B) When providing the face-to-face guidance mentioned in C. (A) b. above, an employer should take necessary measures, while including the following in the matters pertaining to the implementation method and system, and endeavor to disseminate them among workers covered under the high-level professional system from the perspective of enabling them to make requests easily.

a. Preparation of a form for making a request

b. Establishment of an office to accept requests

E. Responses to be made by workplaces with less than 50 regularly employed workers

Workplaces with less than 50 regularly employed workers also need to take measures as mentioned in A. to D. above, but for provision of the face-to-face guidance mentioned in C. above, if it is difficult to individually appoint a physician and provide face-to-face guidance, a Regional Industrial Health Center should be utilized.

Additionally, when developing procedures as mentioned in D. above, an employer of a workplace with less than 50 regularly employed workers should endeavor to utilize opportunities to hear the opinions of related workers prepared based on the provisions of Article 23-2 of the Regulation on

Industrial Safety and Health (excluding the case where a labor-management committee conducts investigations and deliberations).

Face-to-face guidance by a Regional Industrial Health Center received by a worker covered under the high-level professional system as instructed by his/her employer is deemed to fall under face-to-face guidance by a physician designated by the employer prescribed in Article 66-8, paragraph (2) of the Industrial Safety and Health Act. In this case, the employer must submit a document stating the relevant worker's working status (for example, the time requiring health management, the monthly excess hours when the time requiring health management exceeded 40 hours per week, or work content, etc. during the last one month) to the physician and record the results of the face-to-face guidance and preserve that record based on Article 52-6 of the Regulation on Industrial Safety and Health as applied mutatis mutandis pursuant to Article 52-7-4 of the same Regulation.

F. Selective measures and measures to secure workers' health and welfare

An employer should implement the measures to secure days off, selective measures, and measures to secure workers' health and welfare for workers covered under the high-level professional system based on the content of a labor-management committee resolution.

(4) Implementation of mental health measures

A. Implementation of mental health measures

Based on a mental fitness plan formulated through investigations and deliberations by a health committee, etc. in line with the Mental Health Guidelines, an employer should take measures for promoting workers' mental fitness, while taking into account the characteristics of mental health problems and giving due consideration to the protection of workers' personal information including health information and the respect of workers' intentions.

Specifically, an employer should make efforts for primary prevention to prevent workers from suffering mental health disorders by utilizing the stress check system and improving the working environment, etc., secondary prevention to early detect workers' mental health disorders and make appropriate actions, and tertiary prevention to offer support to workers who once suffered mental health disorders for their return to work.

Additionally, an employer should endeavor to provide training and necessary information and to ensure continuous and systematic implementation of four types of mental healthcare activities: self-care, line care (healthcare by supervisors, etc.), professional care (healthcare by professional staff within the workplace), and outside care (healthcare utilizing sources outside the workplace).

B. Implementation of a stress check

Based on Article 66-10 of the Industrial Safety and Health Act, an employer is obliged to conduct a stress check at least once a year for all regularly employed workers, provide face-to-face guidance by a physician to workers with high stress levels who made a request, hear the opinions of a physician on operational measures, and take necessary measures in consideration of those opinions (these measures are collectively referred to as the "stress check system") (for workplaces with less than 50 regularly employed workers, employers are required to make efforts).

Therefore, based on the Stress Check Guidelines, an employer must implement the stress check system in an appropriate manner.

There may be cases where a mental health disorder due to overwork is found as a result of a stress check and certain operational measures come to be required. Accordingly, an employer should not only provide face-to-face guidance, etc. targeting workers working long hours as mentioned in (2) or (3) above, but also take other measures to prevent health impairment due to overwork by fully utilizing the results of face-to-face guidance for workers with high stress levels and the opinions of a physician concerning operational measures based on those results.

(5) Measures to be taken in the event of a work-related disease due to overwork

When any work-related disease due to overwork has occurred, an employer should investigate the causes of the disease and thoroughly take measures to prevent recurrence as follows, by seeking advice from an industrial physician, etc., in collaboration with an industrial health consultant as needed.

A. Investigations of causes

Investigate causes from various perspectives with regard to the statuses of management of working hours, irregularity in working hours and patterns, and binding hours, the status of business trips, the statuses of shift work and night work, the working environment, mental strain during work, and the results of medical examinations and face-to-face guidance, etc.

B. Prevention of recurrence

Based on the results of the investigations mentioned in A. above, and in light of the investigations and deliberations by the health committee, etc., draw up recurrence prevention measures in accordance with the measures mentioned in 2. to 5. (3) above and properly carry out those measures

(6) Handling of information on workers' mental and physical conditions

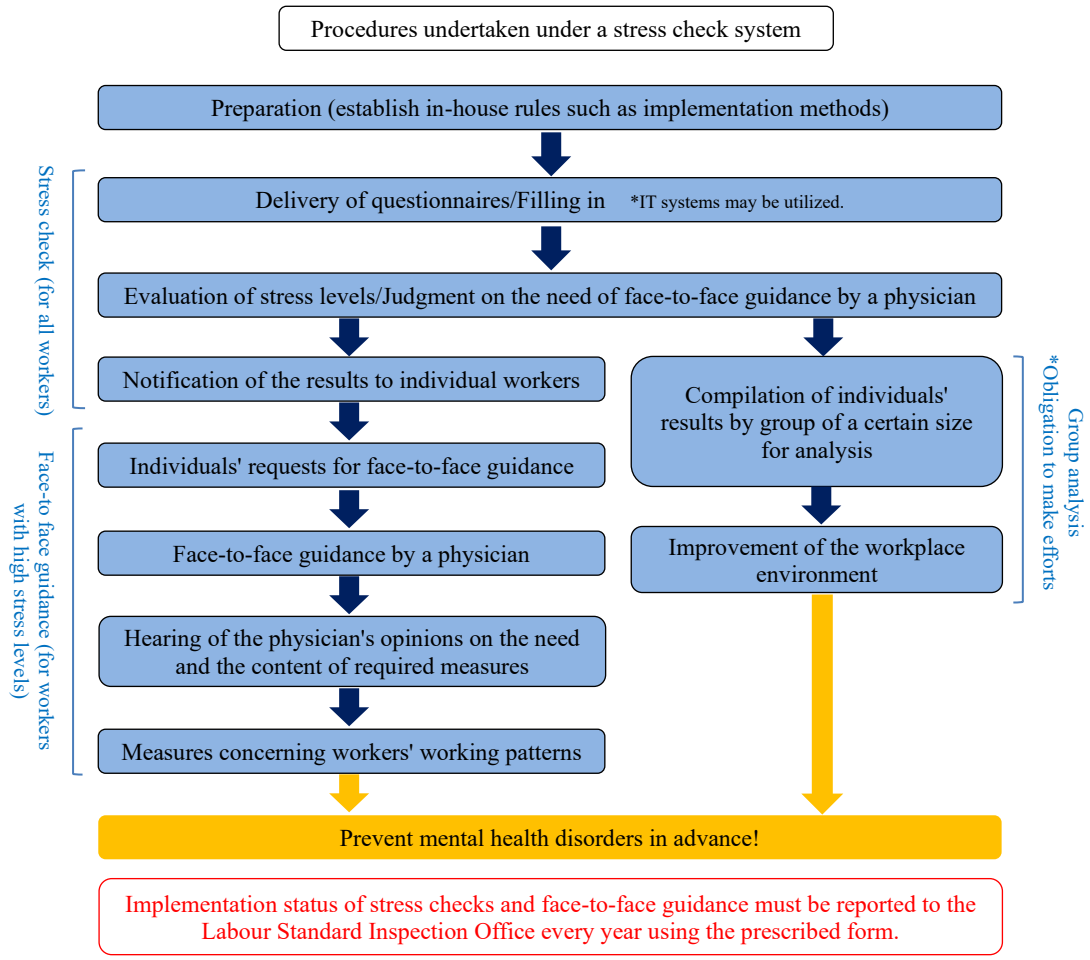
Based on the Guidelines on Proper Handling of Health Information under the provisions of Article 104, paragraph (3) of the Industrial Safety and Health Act, an employer should establish information handling rules for the workplace and properly manage information on workers' mental and physical conditions.

3. Stress Check

A stress check is a simple test to have workers answer questionnaires (closed-ended questions) on stress and compile and analyze answers to enable workers to understand their stress levels.

From December 2015, employers who regularly employ 50 or more workers are required to conduct a stress check once every year for all workers (excluding workers whose contract terms are shorter than one year and part-time workers who work less than three-quarters of regular working hours of ordinary workers) (Article 66-10 of the Industrial Safety and Health Act).

This is a mechanism to prevent workers' mental health disorders in advance by encouraging workers who understand their stress levels through a stress check to voluntarily pay attention to not build up stress, or receive face-to-face guidance by a physician to seek advice or ask the company to reduce workload and improve the workplace environment when their stress levels are high.



Chapter 19: Labor Insurance

I. Labor Insurance (Industrial Accident Insurance and Employment Insurance)

1. Application of Labor Insurance

As long as an employer employs at least one worker, the business falls under the labor insurance requirement. An employer who conducts a business covered by labor insurance must submit a notice of establishment of an insurance relationship (in the prescribed form) to the Director-General of the competent Labour Standards Inspection Office or the director of the competent public employment security office within 10 days from the day following the day on which the insurance relationship is established (generally the day on which an employer first employed a worker).

As procedures relating to employment insurance, an employer must submit a notice of installation of an employment insurance-applied business office (within 10 days from the day following the day of installation) and a notice of acquisition of the employment insurance qualification (by the 10th of the following month), together with a copy of its notice of establishment of an insurance relationship, to the director of the competent public employment security office.

If an insurance relationship is established in the middle of a fiscal year, an employer must pay an estimated insurance premium to the competent Prefectural Labour Bureau, the competent Labour Standards Inspection Office or the Bank of Japan (acting branches, etc.) or other financial institution (a bank or postal office) with a declaration of the estimated insurance premium (in the prescribed form) within 50 days from the day following the day on which the insurance relationship is established.

2. Insurance Premium Rates

Premium rates of industrial accident insurance are specified for each business type. Concrete premium rates are available on the following websites of the Ministry of Health, Labour and Welfare.

・https://www.mhlw.go.jp/bunya/roudoukijun/roudouhokenpoint/index.html

・https://www.mhlw.go.jp/bunya/roudoukijun/roudouhokenpoint/dl/rousaihokenritu_h30.pdf

The details of the premium rates of employment insurance are available on the following website of the Ministry of Health, Labour and Welfare.

・http://www.mhlw.go.jp/stf/seisakunitsuite/bunya/0000108634.html

Labor insurance premiums are calculated by multiplying the wages actually paid by the prescribed rates.

Return and payment of premiums for industrial accident insurance and employment insurance are integrally administered, except for some types of business, and procedures do not need to be undertaken separately.

3. Renewal for Another Fiscal Year

An employer of a labor insurance-applied business must submit a declaration of the estimated/final insurance premium to the Bank of Japan (acting branches, etc.), financial institutions (banks or postal offices), the competent Labour Standards Inspection Office or the competent Prefectural Labour Bureau during a period

from June 1 to July 10 every year and settle up the previous fiscal year's premium and pay the estimated premium for the current fiscal year. When the estimated insurance premium exceeds 400,000 yen, it may be paid in three installments.

4. Use of a Public Consultant on Social and Labor Insurance or a Labor Insurance Affairs Association

It may be often burdensome for SMEs and small businesses to handle labor insurance-related affairs, such as procedures for enrolling in labor insurance or filing returns and paying insurance premiums and other procedures relating to the insured of employment insurance. In such case, they can use a public consultant on social and labor insurance, a title which is a national qualification, or a labor insurance affairs association.

Under the labor insurance affairs association system, an employers' organization approved as a labor insurance affairs association by the Minister of Health, Labour and Welfare receives entrustment from its member employers and files returns and pays labor insurance premiums and submits various notices on their behalf. Many business cooperatives, chambers of commerce and other employers' organizations are approved as labor insurance affairs associations.

However, procedures concerning insurance benefits cannot be entrusted to labor insurance affairs associations. These procedures need to be entrusted to public consultants on social and labor insurance or be individually undertaken by each workplace.

5. Workers to be Insured

(1) Industrial accident insurance

Industrial accident insurance applies to all workers working for businesses covered by industrial accident insurance, irrespective of being full-time workers or part-time workers with any titles.

If a worker suffers an injury or a disease or dies due to any accident while performing duties or during travel to or from work, insurance benefits under the industrial accident compensation insurance scheme are provided to the worker or his/her bereaved family. In such a case, even if the employer fails to complete the procedure for establishing an insurance relationship for industrial accident compensation insurance, the worker can still receive insurance benefits, but the employer may be required to bear the costs necessary for the insurance benefits in full or in part.

A small and medium-sized business or sole proprietor that has specially enrolled in industrial accident insurance via a labor insurance affairs association or a special enrollment organization is also covered under compensation. The details are available on the following website of the Ministry of Health, Labour and Welfare.

・http://www.mhlw.go.jp/stf/seisakunitsuite/bunya/koyou_roudou/roudoukijun/rousai/kanyu.html

(2) Employment insurance

Workers employed by a workplace covered by employment insurance who satisfy both of the following requirements are all insured, in principle, irrespective of being full-time workers, junior employees, or part-time workers with any titles.

[i] The person is expected to be employed for 31 days or longer.

[ii] The person's regular weekly working hours are 20 hours or more.

Cases of a contract without a fixed term and also a contract with a fixed term of shorter than 31 days but expected to be repeatedly renewed for a period of 31 days or longer in consideration of the purpose of employment and circumstances of other workers employed under similar contracts fall under these requirements.

Daytime students are not covered by employment insurance.

Directors, auditors or other executives are also not covered. However, a company director also serving as a department manager, etc. who is found to be a worker rather than an executive from the perspective of paid executive compensation, etc. may be covered by employment insurance by filing a notification to Hello Work. In such case, the portion of executive compensation is excluded from the coverage of unemployment benefits.

6. Types of Insurance Benefits

(1) Industrial accident insurance

[i] Medical (compensation) benefits

When a worker needs to receive medical treatment for injury or disease

[ii] Absence from work (compensation) benefits

When a worker cannot work and cannot receive wages due to medical treatment for injury or disease

[iii] Disability (compensation) benefits

When any disability remains after injury or disease is healed (symptoms have become fixed)

- Disability (compensation) pension: Disability Grades 1 to 7
- Disability (compensation) lump sum payment: Disability Grades 8 to 14

[iv] (Compensation) benefits for surviving family

When a worker died

- (Compensation) pension for surviving family: When there is any surviving family who has maintained his/her livelihood with earnings of the deceased
- Lump sum (compensation) for surviving family: When there is no surviving family who receives (compensation) pension for surviving family

[v] Funeral service fee (Funeral rites benefits)

When a funeral for a dead worker is held

[vi] Injury and disease (compensation) pension

When injury or disease is not healed (symptoms have not become fixed) even after one and a half years after commencing medical treatment and the level of disability due to the injury or disease falls under any Injury/Disease Grade

[vii] Nursing care (compensation) benefits

When a worker receives a disability (compensation) pension or injury and disease (compensation) pension due to a certain disability and is currently receiving nursing care

[viii] Follow-up medical examination benefits

When a worker is diagnosed as having abnormalities in certain items relating to brain and cardiac diseases as a result of the latest periodical medical examinations conducted based on the Industrial Safety and Health Act

(2) Employment insurance

A. Qualified recipients (Basic allowance)

In order to receive basic allowance, a period of being insured needs to be at least 12 months (containing at least 11 days or at least 80 working hours, the basis for paying wages every month) in the two years prior to the day of separation from employment, in principle.

A specific qualified recipient (a person who separated from employment due to bankruptcy or dismissal, etc.) is considered to satisfy the eligibility criteria if his/her period of being insured is at least 6 months (containing at least 11 days or at least 80 working hours, the basis for paying wages every month) in the one year prior to the day of separation from employment.

Even regarding a person who does not fall under the category of specific qualified recipient and whose labor contract with a fixed term has not been renewed, if a period of being insured is 6 months or longer in total in the one year prior to the day of separation from employment, he/she is also considered to satisfy the eligibility criteria.

B. Benefits for unemployment, etc.

[i] Job applicant benefits

- Job applicant benefits for generally insured persons
  - Basic allowance: When a person has become unemployed
  - Skill acquisition allowance: When a person receives vocational training as instructed by the director of the competent public employment security office
  - Lodging allowance: When a person needs to stay at a hotel for receiving the abovementioned training
  - Injury and disease allowance: When a person cannot be employed due to injury or disease after applying for a job
- Job applicant benefits for elderly insured persons (job applicant benefits for the elderly)
- Job applicant benefits for specially insured persons in short-term employment (special lump sum payment)
- Job applicant benefits for insured day workers (job applicant benefits for day workers)

[ii] Employment promotion benefits

- Re-employment allowance

  When a qualified recipient has obtained a stable job, while leaving one-third or more of the number of days for which he/she can receive basic allowance
- Retention allowance for employment promotion

When a recipient of re-employment allowance is employed by the relevant employer for six months or longer and paid wages are lower than his/her former wages

・Employment allowance

When a qualified recipient has been employed in a form other than regular employment, which is not eligible for re-employment allowance, while leaving one-third or more of days (at least 45 days) for which he/she can receive basic allowance

・Regular employment preparation allowance

When a person with difficulties in finding jobs, such as a person with disabilities or a person aged 45 or older covered under a new employment support plan, has obtained a stable job as introduced by a public employment security office, etc. and is found to be surely employed by the relevant employer continuously for one year or longer

・Moving expenses

When a person has relocated for the purpose of being employed as introduced by the director of a public employment security office

・Financial assistance for job seeking activities

When a person carries out job seeking activities in a broad area as introduced by the director of a public employment security office or when a person uses temporary childcare services for job seeking activities and job interviews, etc.

[iii] Educational training benefits

When a person receives educational training as designated by the Minister of Health, Labour and Welfare

[iv] Continuous employment benefits

[Continuous employment benefits for the elderly]

・Basic continuous employment benefits for the elderly

When a person aged between 60 and 64 continues to work with his/her wages reduced to less than 75% of those at the age of 60

・Re-employment benefits for the elderly

When a person who had been receiving basic allowance (the remaining days for receiving basic allowance needs to be no less than 100 days) was re-employed after becoming 60 years old and the wages are less than 75% of the amount of 30 times of daily wages that served as the basis for the basic allowance

[Family care leave benefits]

・Family care leave benefits

When a worker takes family care leave for the purpose of taking care of a subject family member, the amount calculated as follows is paid during the period of the family care leave.

A daily wage at the time of starting leave × Number of days covered × 67% (for three times up to 93 days in total for one family member)

[v] Child care leave benefits

・Child care leave benefits

When a worker takes child care leave for raising a child younger than one year old (until the child becomes one year and six months old or two years old when the child cannot receive care at a child care center, etc.; or until the child becomes one year and two months old when both parents take child care leave under the Mom & Dad Child Care Leave Plus System and they satisfy certain requirements), and satisfies certain requirements, the amount calculated as follows is paid.

* A worker can take child care leave on two occasions by dividing the leave.

A daily wage at the time of starting leave × Number of days covered × 67% (50% from the 181th day after starting leave)

・Parental leave benefits

When a worker takes parental leave for raising a child by specifying a period of not exceeding 4 weeks (28 days) until the day following the day on which 8 weeks elapse from the date of childbirth, and satisfies certain requirements, the amount calculated as follows is paid.

A daily wage at the time of starting leave × Number of days (up to 28 days) × 67%

(The number of days for which parental leave benefits are paid is aggregated into the 180 days during which the rate of 67% for the child care leave benefits applies.)

Reference Materials (Forms, etc.)

I. Related to Various Reports, Notifications and Applications

1. Related to the Labor Standards Act

Cases	Required documents	Filers	By when	To where
When intending to manage workers' savings	Notice of agreement on management of saving	Employer	Before starting management	Director-General of the competent Labour Standards Inspection Office
When managing workers' savings	Report on the status of management of savings	Employer	By April 30 for the status of the previous one year	Director-General of the competent Labour Standards Inspection Office
When intending to dismiss a worker whose dismissal is restricted in the event that the continuance of the enterprise has been made impossible by a natural disaster or other unavoidable reason	Application for approval for exemption from restrictions on dismissal	Employer	Before dismissal	Director-General of the competent Labour Standards Inspection Office
When intending to dismiss a worker without providing 30 days' advance notice or paying allowance for dismissal without advance notice in the event that the continuance of the enterprise has been made impossible by a natural disaster or other unavoidable reason or due to any causes attributable to the worker	Application for approval for exemption from obligation to provide advance notice	Employer	Before dismissal	Director-General of the competent Labour Standards Inspection Office
When intending to set regular working hours so that weekly working hours do not exceed 40 hours on average during a certain period not exceeding 1 month	Notice of agreement on a one-month variable working hours system	Employer	Before adopting the relevant system	Director-General of the competent Labour Standards Inspection Office
When intending to set regular working hours so that weekly working hours do not exceed 40 hours on average during a certain period not exceeding 1 year	Notice of agreement on a one-year variable working hours system	Employer	Before adopting the relevant system	Director-General of the competent Labour Standards Inspection Office
When an employer of a retailer, hotel, restaurant, or eating and drinking establishment with 29 or less workers where regular weekly working hours do not exceed 40 hours intends to have workers work up to 10 hours per day	Notice of agreement on a one-week atypical adjustable working hours system	Employer	Before adopting the relevant system	Director-General of the competent Labour Standards Office
When intending to have a worker work overtime or on a day off temporarily in the event of a natural disaster or other unavoidable reason	Application for permission for extension of working hours and work on days off due to a natural disaster or other emergency	Employer	Before having a worker engage in the relevant work	Director-General of the competent Labour Standards Inspection Office
When there is no time to receive the abovementioned permission in an emergency	Notice of extension of working hours and work on days off due to a natural disaster or other emergency	Employer	Afterwards without delay	Director-General of the competent Labour Standards Inspection Office

When having a worker work in excess of the statutory working hours or on a statutory holiday	Notice of agreement on extension of working hours and work on days off	Employer	Before having a worker engage in the relevant work	Director-General of the competent Labour Standards Inspection Office
When deemed working hours outside the workplace exceed the statutory working hours	Notice of agreement on extension of working hours and work on days off (with agreement on work outside the workplace)	Employer	Before having a worker engage in the relevant work	Director-General of the competent Labour Standards Inspection Office
In the case where a worker engages in work outside the workplace for the whole or part of his/her working hours and it is difficult to calculate his/her working hours, when deeming that the worker worked for hours as agreed between labor and management	Notice of agreement on work outside the workplace	Employer	Before having a worker engage in the relevant work	Director-General of the competent Labour Standards Inspection Office
When having a worker under a discretionary work system for professional work engage in work under agreements [i] that concrete instructions on work content will not be given and [ii] that the worker will be deemed to have worked for hours as agreed between labor and management	Notice of agreement on a discretionary work system for professional work	Employer	Before having a worker engage in the relevant work	Director-General of the competent Labour Standards Inspection Office
When a labor-management committee made a resolution to introduce a discretionary work system for management-related work	Notice of resolution on a discretionary work system for management-related work	Employer	Before having a worker engage in the relevant work	Director-General of the competent Labour Standards Inspection Office
When a company adopting a discretionary work system for management-related work makes periodical reports on the status of working hours, etc.	Report on a discretionary work system for management-related work	Employer	Once within every 6 months after a resolution was made	Director-General of the competent Labour Standards Inspection Office
When a labor-management committee made a resolution in lieu of an agreement on overtime work and work on days off	Notice of resolution of a labor-management committee on overtime work and work on days off	Employer	Before having a worker work overtime or on a day off	Director-General of the competent Labour Standards Inspection Office
When an employer of an infant home, foster home, or facility for children with disabilities intends to exclude its worker who lives together with children from the application of the principle of free use of rest periods	Application for permission for exclusion from application of the principle of free use of rest periods	Employer	Before restricting free use	Director-General of the competent Labour Standards Inspection Office
When intending to have a worker engage in monitoring or intermittent labor and exclude such worker from the application of regulations on working hours, etc.	Application for permission for exclusion of workers engaging in monitoring or intermittent labor	Employer	Before having a worker engage in the relevant work	Director-General of the competent Labour Standards Inspection Office
When intending to have a worker engage in intermittent night duty or day duty and exclude such worker from the application of regulations on working hours, etc.	Application for permission for intermittent night duty or day duty	Employer	Before having a worker engage in the relevant work	Director-General of the competent Labour Standards Inspection Office
When intending to employ a child (student) until the end of the fiscal	Application for permission for employment of a child	Employer	Before employing a child (student)	Director-General of the competent

year during which he/she becomes 15 years old	Application for certificate by a school principal			Labour Standards Inspection Office
When intending to have a minor aged under 18 work until 22:30 on a shift work basis	Application for permission for extension of hours for night work of a minor	Employer	Before having a minor engage in the relevant work	Director-General of the competent Labour Standards Inspection Office
When intending to construct, relocate or change an annex dormitory for a business wherein 10 or more regularly employed worker work or for a dangerous or injurious business	Notice of construction, relocation and change of an annex dormitory	Employer	By 14 days before the commencement of construction	Director-General of the competent Labour Standards Inspection Office
When intending to construct or relocate an annex dormitory for a construction business or change plans therefor	Notice of construction, relocation and change of an annex dormitory for a construction business	Employer	By 14 days before the commencement of construction	Director-General of the competent Labour Standards Inspection Office
When drawing up or altering rules of a dormitory	Notice of establishment (alteration) of dormitory rules	Employer	Before starting to operate a dormitory	Director-General of the competent Labour Standards Inspection Office
When a workplace with 10 or more regularly employed workers has drawn up or altered rules of employment	Notice of establishment (alteration) of rules of employment	Employer	Immediately	Director-General of the competent Labour Standards Inspection Office
When the business has come to be covered under the Labor Standards Act (when having started to employ a worker, irrespective of industry types)	Report of applicable business	Employer	Without delay	Director-General of the competent Labour Standards Inspection Office
When intending to receive reimbursement of wages unpaid due to bankruptcy	Application for approval	Retired worker whose wages are not paid	Within 6 months from the day following the day of separation from employment	Director-General of the competent Labour Standards Inspection Office
When intending to seek confirmation of the amount of wages unpaid due to a bankruptcy	Application for confirmation	Retired worker whose wages are not paid	Within 2 years from the day following the day on which a bankruptcy was admitted, etc.	Director-General of the competent Labour Standards Inspection Office

Documents to be prepared and preserved at workplaces

Cases	Required documents	Preparers	By when
When having employed a worker	Roster of workers	Employer	As soon as a worker is employed
When intending to employ a worker	Notice of working conditions	Employer	At the time a worker is employed
When having employed a regular worker, irrespective of a full-timer or part-timer	Wage ledger (for regular workers)	Employer	Each time wages are paid
When having employed a day laborer	Wage ledger (for day laborers)	Employer	Each time wages are paid

When a resigning worker has requested a certificate regarding the period of employment, the type of occupation, the position in the business, wages, and the reason for separation from employment (in the case of dismissal, including the reason for dismissal)	Certificate for separation from employment regarding the reason for dismissal	Employer	Each time a request is received

2. Related to the Industrial Safety and Health Act

Cases	Required documents	Filers	By when	To where
When having appointed a general safety and health manager	Report of appointment of a general safety and health manager, safety officer, health officer, or industrial physician	Employer	Without delay	Director-General of the competent Labour Standards Inspection Office
When having appointed a safety officer	Report of appointment of a general safety and health manager, safety officer, health officer, or industrial physician	Employer	Without delay	Director-General of the competent Labour Standards Inspection Office
When having appointed a health officer	Report of appointment of a general safety and health manager, safety officer, health officer, or industrial physician	Employer	Without delay	Director-General of the competent Labour Standards Inspection Office
When having appointed an industrial physician	Report of appointment of a general safety and health manager, safety officer, health officer, or industrial physician	Employer	Without delay	Director-General of the competent Labour Standards Inspection Office
When an employer who regularly employs 50 or more workers conducted medical examinations	Report of the results of periodical medical examinations	Employer	Without delay	Director-General of the competent Labour Standards Inspection Office
When a worker died while working or within the workplace or took a leave of absence from work	Report of a worker's death, injury or disease	Employer	Without delay	Director-General of the competent Labour Standards Inspection Office

* When filing any of the notifications above, support services for preparing documents related to the Industrial Safety and Health Act are available (https://www.chohyo-shien.mhlw.go.jp/).

3. Procedures for Labor Insurance

(1) Procedures for application of labor insurance and collection of insurance premiums: Continuing businesses (including collective fixed-term projects)

Cases	Required documents	Filers	By when	To where
When newly starting an applicable business or when the current business has come to fall under an applicable business	Notice of establishment of insurance relationship	Employer	Within 10 days from the day following the day of the establishment of a new insurance relationship	Director-General of the competent Labour Standards Inspection Office or director of the competent public employment security office
When an employer of a business eligible for voluntary application intends to apply for enrollment in insurance	Application for voluntary enrollment	Employer	Each occasion	For the portion of industrial accident insurance: the director of the competent Labour Bureau via the competent Labour Standards Inspection Office, and for the portion of employment insurance:

				the director of the competent Labour Bureau via the public employment security office
When declaring and paying the final insurance premium for the previous fiscal year and an estimated insurance premium for the current fiscal year	Declaration of estimated insurance premium, estimated increase in insurance premium, or final insurance premium; Written payment of insurance premium	Employer	From June 1 to July 10 every year	Financial institutions (head office, branch offices, acting branches, and revenue agencies of the Bank of Japan, postal offices), competent Labour Bureau, and competent Labour Standards Inspection Office
When declaring and paying an estimated insurance premium for an insurance relationship established in the middle of a fiscal year for the period from the day of establishment of the relationship to the final day of that fiscal year, or when declaring and paying the final insurance premium for an insurance relationship extinguished in the middle of a fiscal year for the period from the first day of that fiscal year to the day of extinguishment of the relationship	Declaration of estimated insurance premium, estimated increase in insurance premium, or final insurance premium; Written payment of insurance premium	Employer	Within 50 days from the day following the day of the establishment of an insurance relationship or from the day of extinguishment	Competent Labour Bureau, and competent Labour Standards Inspection Office (for the payment of an estimated insurance premium or the additional payment upon settlement of the final insurance premium, financial institutions (head office, branch offices, acting branches, and revenue agencies of the Bank of Japan, postal offices) may be utilized)
When it is expected that an estimate of total wages that served as the calculation basis of an estimated insurance premium will increase by two-fold or more and the difference between an estimated insurance premium based on the increased total wages and the already declared estimated insurance premium is 130,000 yen or more	Declaration of estimated insurance premium, estimated increase in insurance premium, or final insurance premium; Written payment of insurance premium	Employer	Within 30 days from the day following the day on which a high possibility of an increase was found	Financial institutions (head office, branch offices, acting branches, and revenue agencies of the Bank of Japan, postal offices), competent Labour Bureau, and competent Labour Standards Inspection Office
When an employer who has voluntarily enrolled in insurance intends to extinguish the existing insurance relationship for the relevant business	Application for extinguishment of insurance relationship	Employer	Each occasion	For the portion of industrial accident insurance: the director of the competent Labour Bureau via the competent Labour Standards Inspection Office, and for the portion of employment insurance: the director of the competent Labour Bureau via the public employment security office
When an employer of a continuing business seeks collective administration of insurance relationships for two or more businesses or wants to change or cancel collective administration already applied	Application for collective approval, addition, or cancellation of continuing business	Employer	Each occasion	For the portion of industrial accident insurance: the director of the competent Labour Bureau via the Labour Standards Inspection Office having jurisdiction over the designated business, and for the portion of employment insurance: the director of the competent Labour Bureau via the public employment security office having jurisdiction over the designated business

When there is any change in the following for a business wherein an insurance relationship has been established [i] Name and address or location of the employer [ii] Name of the business [iii] Place of the business [iv] Type of the business	Notice of change in name or location	Employer	Within 10 days from the day following the day of a change	Director-General of the competent Labour Standards Inspection Office or director of the competent public employment security office (in the case of a change in the address or location ([i]) or the place of business ([iii]), those having the jurisdiction over those areas after change)
When any excess amount was found in paid insurance premiums upon settlement, and an employer seeks refund thereof	Request for refund	Employer	When submitting a declaration of final insurance premium	Competent Labour Bureau, and competent Labour Standards Inspection Office
When an employer appoints an agent to have that agent handle all or part of labor insurance-related affairs to be originally handled by the employer or when an employer intends to dismiss such agent	Notice of appointment or dismissal of an agent	Employer	Each occasion	Director-General of the competent Labour Standards Inspection Office or director of the competent public employment security office

(2) Major notifications related to employment insurance to be filed by employers [Related to business offices (including those for industrial accident insurance)]

Cases	Required documents	By when	To whom
When having started a business, etc.	[i] Notice of establishment of insurance relationship	Within 10 days from the day following the day of the establishment of a new insurance relationship	Director-General of the competent Labour Standards Inspection Office or director of the competent public employment security office
	[ii] Declaration of estimated insurance premium	Within 50 days from the day following the day of the establishment of the relevant insurance relationship	
	[iii] Notice of installation of an employment insurance-applied business office (after submission of [i])	Within 10 days from the day following the day of the installation of a business office	Director of the competent public employment security office
When intending to enroll in insurance for a voluntary applicable business	Application for voluntary enrollment (together with [iii])	Each occasion when seeking voluntary enrollment	Director of the competent public employment security office
When having appointed (dismissed) an agent	[iv] Notice of appointment or dismissal of agent for labor insurance	Each occasion	Director-General of the competent Labour Standards Inspection Office or director of the competent public employment security office having jurisdiction over the appointment (dismissal) of agents
	Notice of appointment or dismissal of agent for notifications in relation to the insured of employment insurance (after submission of [iv])		Director of the competent public employment security office having jurisdiction over the appointment (dismissal) of agents
When having changed the name or location of a business office or changed a business type, etc.	[v] Notice of change in name or location	Within 10 days from the day following the day of a change	Director-General of the competent Labour Standards Inspection Office or director of the competent public employment security office (for a change in

			location, at the new location)
	Notice of various changes concerning a business office of an employment insurance-applied business (after submission of [v])		Director of the competent public employment security office (for a change in location, at the new location)
When having abolished a business, etc.	Notice of abolition of an employment insurance-applied business office (Declaration of final insurance premium)	Within 10 days from the day following the day of abolition	Director of the competent public employment security office

[Related to the insured]

Cases	Required documents	By when	To whom
When having employed a worker, etc.	Notice of acquisition of the employment insurance qualification	By 10th of the following month	Director of the competent public employment security office
When the insured has been transferred within business offices	Notice of relocation of the insured of employment insurance	Within 10 days from the day following the day of relocation	Director of the competent public employment security office at the location after relocation
When the insured has changed his/her name	(In addition to the following notices) Notice of acquisition of the employment insurance qualification Notice of loss of the employment insurance qualification Notice of relocation of the insured of employment insurance Notice of registration or change of personal number Notice of termination of continuous employment personnel exchange Application for basic continuous employment benefits for the elderly (including the first application) Application for family care leave benefits Application for child care leave benefits (including the first application)	When an employer files any other notification in relation to the relevant insured on or after the day of the relevant change	Director of the competent public employment security office
* When the insured started to take child care leave	Certificate of monthly wage as of the time when the insured of employment insurance starts to take a leave (child care leave)	Within 10 days from the day following the day of the commencement of a leave	Director of the competent public employment security office
* When the insured started to take family care leave	Certificate of monthly wage as of the time when the insured of employment insurance starts to take a leave (family care leave)	Within 10 days from the day following the day of the commencement of a leave	Director of the competent public employment security office
When the insured who had taken child care leave or family care leave or had had his/her working hours shortened separated from employment and became a specific qualified recipient	Certificate of wage as of the time when the insured of employment insurance starts to take a leave or have his/her working hours shortened	Within 10 days from the day following the day on which a person ceased to be the insured	Director of the competent public employment security office
When the insured has separated from employment or has died, etc.	Notice of loss of the employment insurance qualification	Within 10 days from the day following the day on which a person ceased to be the insured	Director of the competent public employment security office
When the insured has lost or damaged his/her insurance certificate	Application for reissuance of employment insurance certificate	Each occasion (by the relevant person him/herself)	Director of a public employment security office that the person selects

**When the insured intends to receive basic continuous employment benefits for the elderly	Application for basic continuous employment benefits for the elderly (Certificate of wage at the time when the insured of employment insurance became 60 years old, etc.)	Within 4 months from the first day of the month in which the provision of benefits started	Director of the competent public employment security office
**When the insured intends to receive re-employment benefits for the elderly	Application for re-employment benefits for the elderly, etc.	Within 4 months from the first day of the month in which the provision of benefits started after re-employment	Director of the competent public employment security office
**When the insured intends to receive family care leave benefits for the first time	Application for family care leave benefits (Certificate of wage as of the time when the insured of employment insurance starts to take a leave, etc.)	In principle, by the last day of the month that contains the day on which 2 months elapse from the day of the end of a leave	Director of the competent public employment security office
**When the insured intends to receive parental leave benefits	Application for parental leave benefits (Certificate of wage as of the time when the insured of employment insurance starts to take a leave, etc.)	From the day following the day on which 8 weeks elapse from the childbirth (when childbirth was earlier than the due date , from the due date) to the last day of the month that contains the day on which 2 months elapse from the relevant day	Director of the competent public employment security office
**When the insured intends to receive child care leave benefits for the first time	Application for child care leave benefits (Certificate of wage as of the time when the insured of employment insurance starts to take a leave, etc.)	By the last day of the month that contains the day on which 4 months elapse from the day of the commencement of a leave	Director of the competent public employment security office

・Documents to be submitted in cases marked with * may be submitted by an employer when he/she submits an application for benefits on behalf of the insured, together with that application.

・Procedures in cases marked with ** must be undertaken by the insured him/herself, in principle. However, by concluding a written agreement with a labor union consisting of the majority of the workers of the business office or the like, an employer may submit an application for benefits on behalf of the insured. An application for benefits may be filed within two years after the occurrence of the grounds for provision of benefits, even after the abovementioned due dates for application.

(Note) Forms for these notices are available at Hello Work (public employment security offices).

(3) Major procedures for request for industrial accident insurance benefits and application for special payments

Cases	Required documents	Filers	By when	To where
When intending to receive medical treatment benefits at a designated medical institution, etc. for injury or disease due to an industrial accident or accident caused by multiple businesses, or while commuting	Request for medical treatment benefits as medical compensation benefits and medical benefits for a worker engaged in multiple businesses (in the case of injury or disease due to an industrial accident or accident caused by multiple businesses)	Worker	When intending to receive medical treatment benefits	Director-General of the competent Labour Standards Inspection Office via a designated medical institution, etc.
	Request for medical treatment benefits as medical benefits (in the case of commuting injury or disease)			

When having received medical treatment at a medical institution other than designated ones for injury or disease due to an industrial accident or accident caused by multiple businesses, or while commuting	Request for medical expenses as medical compensation benefits and medical benefits for a worker engaged in multiple businesses (in the case of injury or disease due to an industrial accident or accident caused by multiple businesses)	Worker	Each occasion	Director-General of the competent Labour Standards Inspection Office
	Request for medical expenses as medical benefits (in the case of commuting injury or disease)			
When a worker cannot work and receive wages for 4 days or longer due to medical treatment for injury or disease due to an industrial accident or accident caused by multiple businesses, or while commuting	Request for absence from work compensation benefits; Request for absence from work benefits for a worker engaged in multiple businesses; Application for special payment for absence from work (in the case of injury or disease due to an industrial accident or accident caused by multiple businesses)	Worker	Each occasion	Director-General of the competent Labour Standards Inspection Office
	Request for absence from work compensation benefits; Application for special payment for absence from work (in the case of commuting injury or disease)			
When any physical disability remains after injury or disease due to an industrial accident or accident caused by multiple businesses, or while commuting has been healed	Request for disability compensation benefits; Request for disability benefits for a worker engaged in multiple businesses; Application for disability special payment; Application for disability special pension; Application for disability special lump sum payment (in the case of injury or disease due to an industrial accident or accident caused by multiple businesses)	Worker	Each occasion	Director-General of the competent Labour Standards Inspection Office
	Request for disability benefits; Application for disability special payment; Application for disability special pension; Application for disability special lump sum payment (in the case of commuting injury or disease)			

When a worker has died due to injury due to an industrial accident or accident caused by multiple businesses, or while commuting	Request for compensation pension for surviving family; Request for pension for surviving family of a worker engaged in multiple businesses; Application for special payment for surviving family; Application for special pension for surviving family (in the case of injury due to an industrial accident or accident caused by multiple businesses)	Surviving family who is a qualified recipient of pension	Each occasion	Director-General of the competent Labour Standards Inspection Office
	Request for pension for surviving family; Application for special payment for surviving family; Application for special pension for surviving family (in the case of commuting injury)			
In the case where a worker died due to injury due to an industrial accident or accident caused by multiple businesses, or while commuting, and there was no surviving family who could receive (compensation) pension for surviving family at that time, or where the right of a qualitied recipient has been extinguished, and there is no other qualified recipient of pension, and when the total amount of already paid pension is less than 1,000 times of basic daily amount of pension	Request for compensation lump sum payment for surviving family; Request for lump sum payment for surviving family of a worker engaged in multiple businesses; Application for special payment for surviving family; Application for special lump sum payment for surviving family (in the case of injury due to an industrial accident or accident caused by multiple businesses)	Worker's surviving family	Each occasion	Director-General of the competent Labour Standards Inspection Office
	Request for lump sum payment for surviving family; Application for special payment for surviving family; Application for special lump sum payment for surviving family (in the case of commuting injury)			
When a worker has died due to injury due to an industrial accident or accident caused by multiple businesses, or while commuting, and a funeral is held therefor	Request for funeral service fee and funeral benefits for a worker engaged in multiple businesses (in the case of injury due to an industrial accident or accident caused by multiple businesses)	Person who holds a funeral for a worker	Each occasion	Director-General of the competent Labour Standards Inspection Office

	Request for funeral benefits (in the case of commuting injury)			
When a worker who is receiving an injury and disease (compensation) pension or disability (compensation) pension due to a certain disability is currently receiving nursing care	Request for nursing care compensation benefits; Application for nursing care benefits for a worker engaged in multiple businesses	Worker	On or after the first day of the month following the month during which a worker received nursing care	Director-General of the competent Labour Standards Inspection Office

(4) Major procedures to be undertaken in relation to request for industrial accident insurance benefits

Cases	Required documents	Filers	By when	To where
When a person who is receiving medical treatment (compensation) benefits intends to change a designated medical institution, etc.	Notice of (change of) designated hospital, etc. for receiving medical treatment benefits as medical compensation benefits and medical benefits for a worker engaged in multiple businesses (in the case of injury or disease due to an industrial accident or accident caused by multiple businesses)	Worker	When intending to change a designated medical institution, etc.	Director-General of the competent Labour Standards Inspection Office via a designated medical institution, etc.
	Notice of (change of) designated hospital, etc. for receiving medical treatment benefits as medical benefits (in the case of commuting injury or disease)	Worker	Each occasion	Director-General of the competent Labour Standards Inspection Office
When there was a change in the level of disability of a person who is receiving disability (compensation) pension	Request for change of disability compensation benefits; Request for change of disability benefits for a worker engaged in multiple businesses; Request for change of disability benefits; Application for change of disability special pension	Worker	Each occasion	Director-General of the competent Labour Standards Inspection Office
When there was a change in a qualified recipient of (compensation) pension for surviving family	Request for change of recipient of compensation pension for surviving family; Request for change of recipient of pension for surviving family of a worker engaged in multiple businesses; Request for change of recipient of pension for surviving family; Application for change of recipient of special pension for surviving family	Surviving family who newly became a qualified recipient	Each occasion	Director-General of the competent Labour Standards Inspection Office

When the whereabouts of a person holding the right to receive (compensation) pension for surviving family have not been known for 1 year or longer	Application for suspension of provision of compensation pension for surviving family; Application for suspension of provision of pension for surviving family of a worker engaged in multiple businesses; Application for suspension of provision of pension for surviving family	Qualified recipient of the same rank or the subsequent rank	Each occasion	Director-General of the competent Labour Standards Inspection Office
When the right of a person holding the right to receive (compensation) pension for surviving family has been extinguished	Notice of extinguishment of right to receive compensation pension for surviving family; Notice of extinguishment of right to receive pension for surviving family of a worker engaged in multiple businesses, Notice of extinguishment of right to receive pension for surviving family	Person who was a qualified recipient	Each occasion	Director-General of the competent Labour Standards Inspection Office
When there was a change in the number of surviving family members who share a livelihood with a qualified recipient of (compensation) pension for surviving family and can receive (compensation) pension for surviving family	Notice of change in calculation base for compensation pension for surviving family; Notice of change in calculation base for pension for surviving family of a worker engaged in multiple businesses; Notice of change in calculation base for pension for surviving family	Qualified recipient	Each occasion	Director-General of the competent Labour Standards Inspection Office
When a person is receiving disease (compensation), etc. pension, disability (compensation), etc. pension, or compensation), etc. pension for surviving family	Periodical report of a qualified recipient of insurance benefits as pension	Qualified recipient	Depending on the birth date of a qualified recipient (in the case of (compensation) pension for surviving family, the relevant dead worker), by June 30 (for those born from January to June) and by October 30 (for those born from July to December) every year	Director-General of the competent Labour Standards Inspection Office
When there was a change in the name or address, etc. of a qualified recipient of pension, etc.	Notice of change in the name or address of a qualified recipient of insurance benefits as pension or change in financial institution, etc. for receiving pension	Qualified recipient	Each occasion	Director-General of the competent Labour Standards Inspection Office (submission may be via the Labour Standards Inspection Office having jurisdiction

				over the qualified recipient's address)
When there was a change in relationship of receiving employee's pension insurance benefits or other social insurance benefits	Notice of change in relationship of receiving employee's pension insurance benefits, etc.	Qualified recipient	Each occasion	Director-General of the competent Labour Standards Inspection Office
In the case where a person holding the right to receive insurance benefits and special payment has died, when there is any unpaid portion of insurance benefits to be paid to that person	Request for unpaid insurance benefits; Application for unpaid special payment	Person who holds the right to claim unpaid insurance benefits	Each occasion	Director-General of the competent Labour Standards Inspection Office

* For other procedures for employee's pension and health insurance, make inquiries at the nearest pension service office.

[October 2022]

(Reference) List of Minimum Wages by Prefecture

FY2022 Revision of Minimum Wages by Prefecture

Prefectures	Revised minimum wages (yen) *Figures in the parentheses are those before revision.		Amount of increase	Effective date
Hokkaido	920	(889)	31	Oct. 2, 2022
Aomori	853	(822)	31	Oct. 5, 2022
Iwate	854	(821)	33	Oct. 20, 2022
Miyagi	883	(853)	30	Oct. 1, 2022
Akita	853	(822)	31	Oct. 1, 2022
Yamagata	854	(822)	32	Oct. 6, 2022
Fukushima	858	(828)	30	Oct. 6, 2022
Ibaraki	911	(879)	32	Oct. 1, 2022
Tochigi	913	(882)	31	Oct. 1, 2022
Gunma	895	(865)	30	Oct. 8, 2022
Saitama	987	(956)	31	Oct. 1, 2022
Chiba	984	(953)	31	Oct. 1, 2022
Tokyo	1,072	(1,041)	31	Oct. 1, 2022
Kanagawa	1,071	(1,040)	31	Oct. 1, 2022
Niigata	890	(859)	31	Oct. 1, 2022
Toyama	908	(877)	31	Oct. 1, 2022
Ishikawa	891	(861)	30	Oct. 8, 2022
Fukui	888	(858)	30	Oct. 2, 2022
Yamanashi	898	(866)	32	Oct. 20, 2022
Nagano	908	(877)	31	Oct. 1, 2022
Gifu	910	(880)	30	Oct. 1, 2022
Shizuoka	944	(913)	31	Oct. 5, 2022
Aichi	986	(955)	31	Oct. 1, 2022
Mie	933	(902)	31	Oct. 1, 2022
Shiga	927	(896)	31	Oct. 6, 2022
Kyoto	968	(937)	31	Oct. 9, 2022
Osaka	1,023	(992)	31	Oct. 1, 2022
Hyogo	960	(928)	32	Oct. 1, 2022
Nara	896	(866)	30	Oct. 1, 2022
Wakayama	889	(859)	30	Oct. 1, 2022
Tottori	854	(821)	33	Oct. 6, 2022
Shimane	857	(824)	33	Oct. 5, 2022
Okayama	892	(862)	30	Oct. 1, 2022
Hiroshima	930	(899)	31	Oct. 1, 2022
Yamaguchi	888	(857)	31	Oct. 13, 2022
Tokushima	855	(824)	31	Oct. 6, 2022
Kagawa	878	(848)	30	Oct. 1, 2022
Ehime	853	(821)	32	Oct. 5, 2022
Kochi	853	(820)	33	Oct. 9, 2022
Fukuoka	900	(870)	30	Oct. 8, 2022
Saga	853	(821)	32	Oct. 2, 2022
Nagasaki	853	(821)	32	Oct. 8, 2022
Kumamoto	853	(821)	32	Oct. 1, 2022
Oita	854	(822)	32	Oct. 5, 2022
Miyazaki	853	(821)	32	Oct. 6, 2022
Kagoshima	853	(821)	32	Oct. 6, 2022
Okinawa	853	(820)	33	Oct. 6, 2022

(October 2022)

< Access the dedicated website for minimum wages from here.>