Key Points 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 summarizes the key points of Japan's labor-related laws, including the Labor Standards Act and the Labor Contracts 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.

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1. Definitions of Worker and Employer

(Articles 9 and 10 of the Labor Standards Act and Article 2 of the Labor Contracts Act)

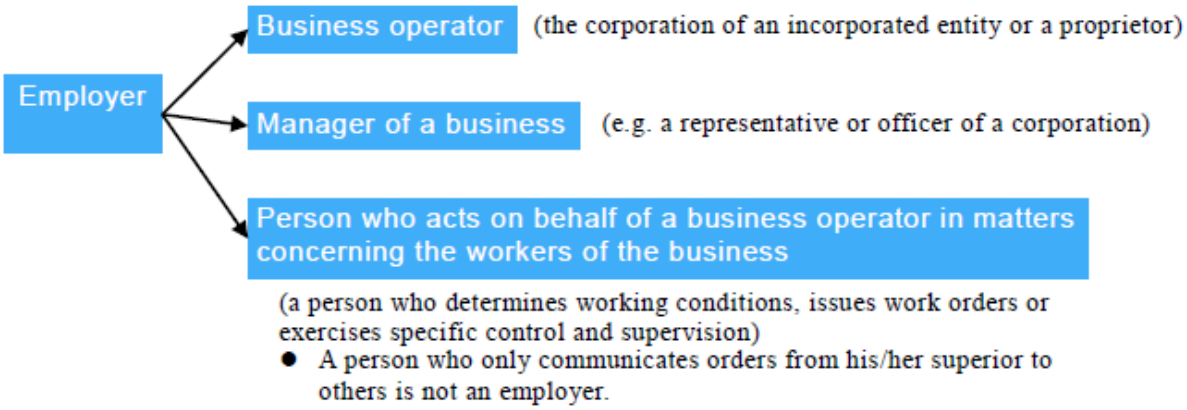
■ **Worker**

A worker to which the Labor Standards Act applies (Article 9 of the same Act) is a person who, [i] regardless of the type of occupation, is [ii] employed at a business or office, and [iii] receives wages therefrom.

On the other hand, a worker under the Labor Contracts Act (Article 2, paragraph (1) of the same Act) is different, meaning a person who [i] is a party to a labor contract concluded with an employer, [ii] works by being employed thereby, and [iii] receives wages therefrom.

■ **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.

2. Labor Contracts

[1] 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)

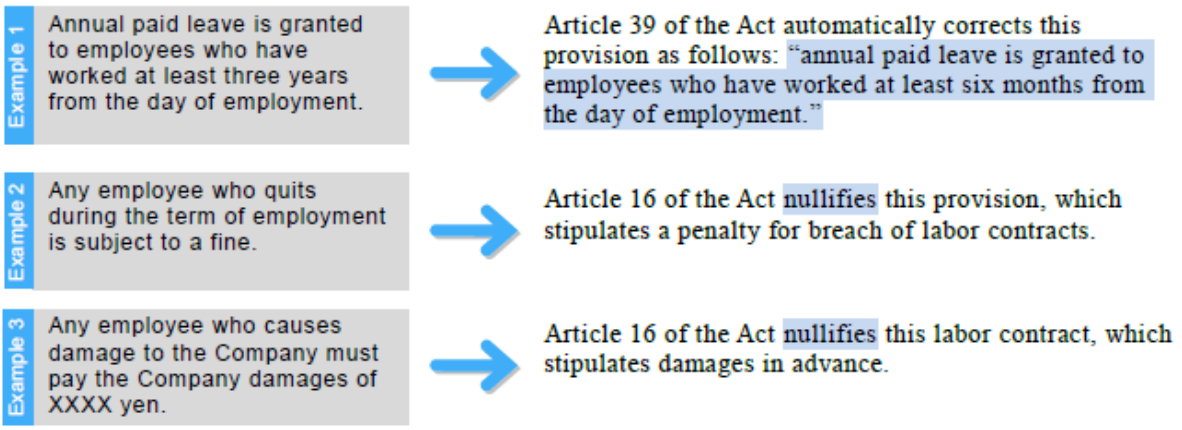
An employer is required to ensure that a worker gains an in-depth understanding of the working conditions and contents of the labor contract presented to the worker. A worker and an employer are required to confirm the contents of the labor contract, whenever possible, in writing.

(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)

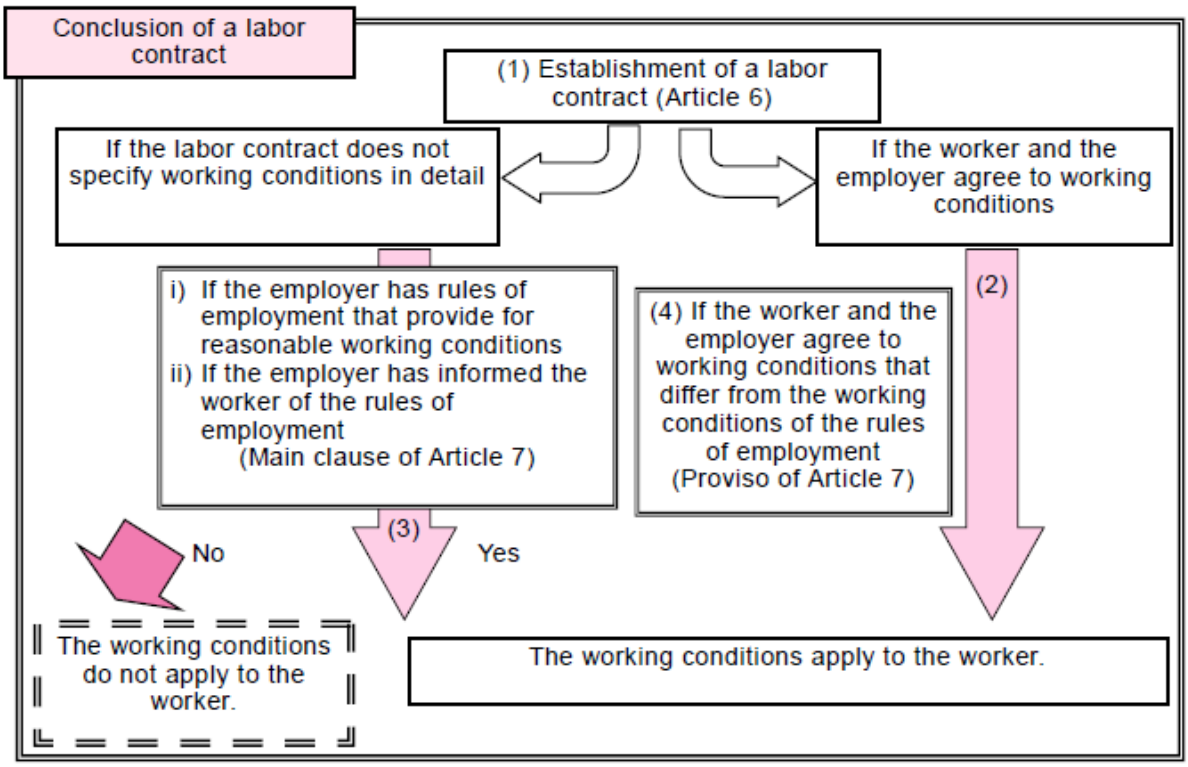
Since the Labor Standards Act is a mandatory law, labor contracts which provide for working conditions which do not meet the standards of this Act are invalid with respect to such portion. The portions which have become invalid are to be governed by the standards of this Act.



[2] 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.

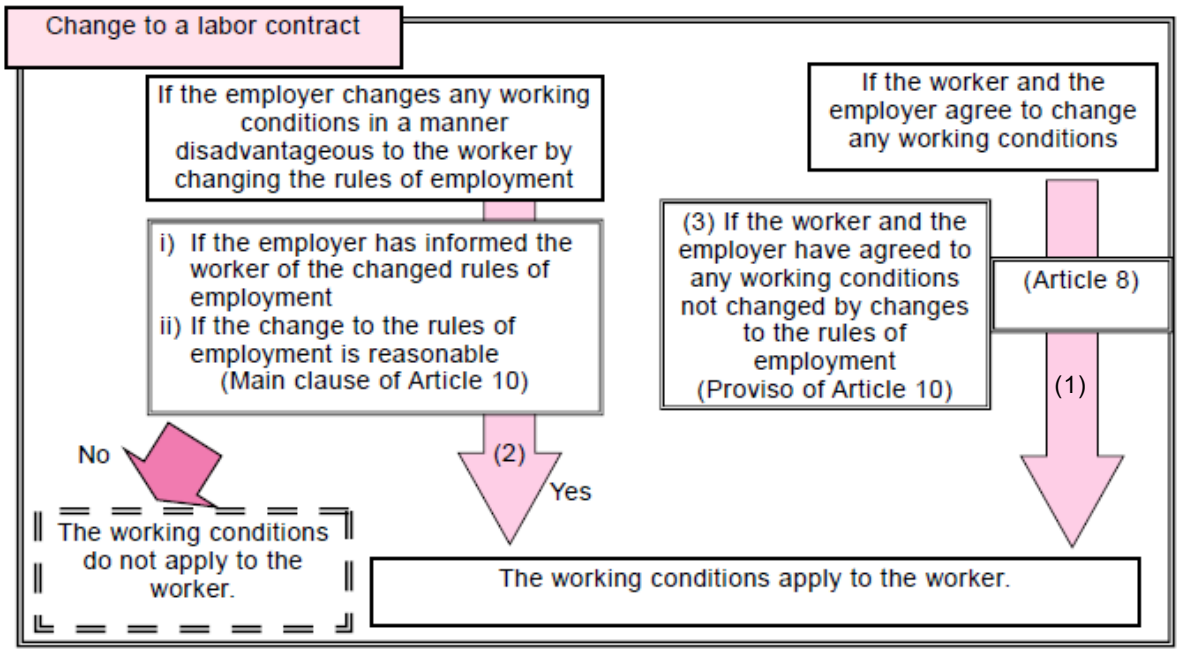
(3) If the worker is employed by the employer without detailed working conditions being provided for in the labor contract, as long as the employer has "rules of employment that provide for reasonable working conditions" and "has informed the worker of the rules of employment," then the worker shall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

- "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.



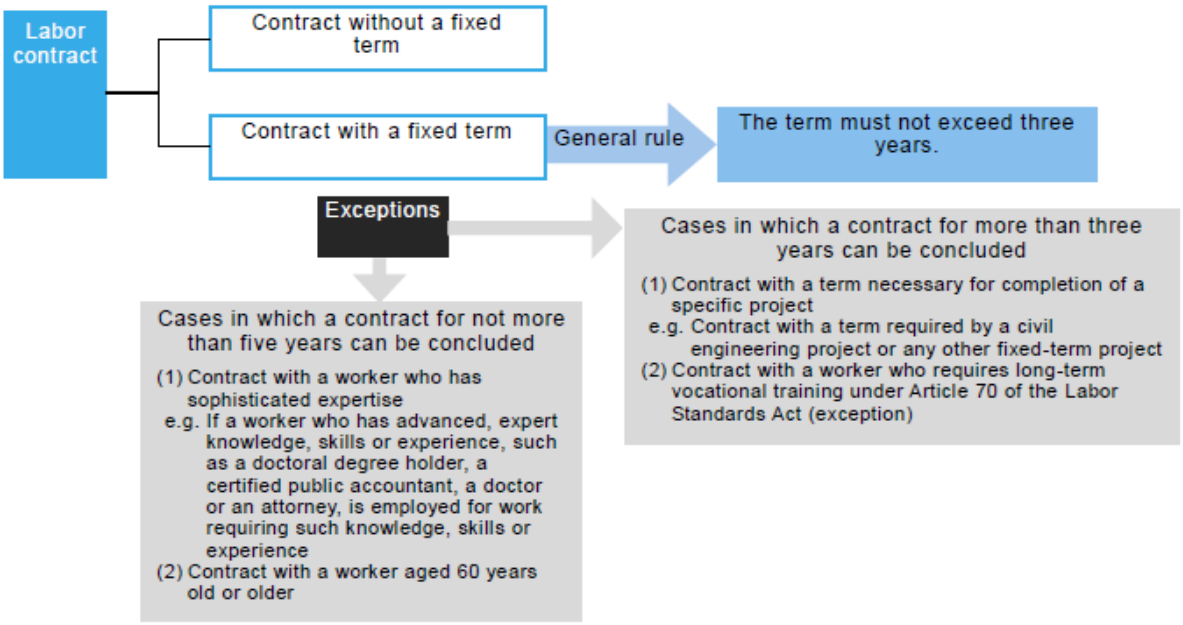
(1) A worker and an employer may, by agreement, change any working conditions.

(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).

[3] 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. 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.

[4] 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, cases in which an employer is considered to have "unavoidable circumstances" are to be limited more narrowly than cases other than those in which dismissal "lacks objectively reasonable grounds and is not considered to be appropriate in general social terms" in accordance with the doctrine of abusive dismissal.
- 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 three 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.

[5] 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 Act on Improvement, etc. of Employment Management for Part-Time and Fixed-Term Workers (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 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.

(Continued on the next 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 increase (Available (Time 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 Part-Time 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 (hours/week, hours/month, hours/year)/Not required) 4 Work on days off (Required (days/month, days/year)/Not required)
Days Off and Working Days	□ 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 (Working days): Every week ( ), Other ( ) ○ 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.

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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 increase (Available (Time 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 ( ) □ Specific title of applicable rules of employment ( ) * 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.

- 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, Labor and Welfare established the **Guidelines on the Promotion of Side Work and Extra Work** in January 2018. 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) Labor insurance (industrial accident insurance and employment insurance) and social insurance (social pension insurance and health insurance)

Labor insurance (industrial accident insurance and employment insurance) and social insurance (social pension insurance and health insurance) apply to workers doing side work or extra work as shown in the following table.

	Insurance type	Application
Labor insurance	Industrial accident compensation insurance	Applied at all places of employment, in principle, and insurance benefits are provided based on the amount totaling all wages paid at all places of employment.
	Employment insurance	Procedures for employment insurance are undertaken 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.
Social insurance	Social pension insurance	*a. When a worker does not satisfy the requirements at any workplaces* Social pension insurance is not applicable.
	Health insurance	*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 (or medical insurer) that has jurisdiction over the selected workplace calculates and determines the worker's standard monthly remuneration amount and collects the insurance premium from the worker.

(2) Working hours and measures to ensure workers' good health

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 principle 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 and provisions on working hours that are applied by aggregating working hours under the Labor Standards Act and those that are not applied by aggregating working hours, see the Guidelines on the Promotion of Side Work and Extra Work).

Additionally, 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. For these measures to ensure workers' good health, 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, for workers doing side work or extra work, health management in consideration of their side work or extra work is preferable, in addition to taking statutory measures to ensure workers' good health.

[2] Checklists for 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 consider permitting 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.

(2) Responses 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. Working Hours

■ **Statutory working hours (Article 32 of the Labor Standards Act)**

No employer is allowed to require workers to work more than eight hours a day and more than 40 hours a week, excluding rest periods (statutory working hours). For workplaces subject to special measures (workplaces with fewer than 10 workers in commerce, film and theatrical performance business [excluding the film-making business], health and hygiene business or entertainment business), an employer is allowed to require workers to work up to eight hours a day and up to 44 hours a week. This means that daily and weekly working hours must be determined within the limit of the statutory working hours (regular working hours).

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

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] 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

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

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

Under this system, an employer determines total working hours for a certain period not exceeding three months, 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.

- Requirements of the flextime system -

[i] The rules of employment or other similar rules must provide that workers may decide their own starting and finishing times.

[ii] A labor-management agreement must decide the scope of workers working on the flextime system, a settlement period, total working hours for the settlement period and standard daily working hours.

* When the settlement period exceeds one month, a notification needs to be submitted to the Director-General of the competent Labour Standards Inspection Office that has jurisdiction over the labor-management agreement.

Settlement Period	A period not exceeding three months for which hours worked by flextime workers must be determined under their labor contracts
Total working hours for the settlement period	Working hours that flextime workers are required to work for the settlement period under their labor contracts (regular working hours)
* The total working hours for the settlement period must meet the condition below: Total working hours for the settlement period ≤ (days of the settlement period / 7) × Statutory working hours per week	
Standard daily working hours	The length of working hours that serves as the basis for calculating wages paid when annual paid leave is taken
Flexible time	Hours during which workers can choose when they start the day and when they finish the day
Core time	Hours during which all workers are expected to be at work (core time is not mandatory)

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

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.

- Requirements of the one-year variable working hours system -

[i] The applicable period must exceed one month but must not exceed one year.

[ii] The average weekly working hours for the applicable period must not exceed 40 hours. (The average weekly working hours for the applicable period must also not exceed 40 hours for workplaces subject to special measures.)

[iii] Maximum working hours must be 10 hours per day and 52 hours per week.

[iv] The working days during the applicable period must not exceed 280 days per year.
(If the applicable period does not exceed three months, there is no limitation on the number of working days.)

[v] As a general rule, workers must not work more than six consecutive days.

[vi] Premium wages must be paid for actual working hours in excess of the statutory working hours if regular daily and weekly working hours are shorter than the statutory working hours or for actual working hours in excess of regular daily and weekly working hours if the regular daily and weekly hours are longer than the statutory working hours.

[vii] A labor-management agreement must be concluded on the scope of target workers, the applicable period, the starting day of the applicable period, working days, working hours for each working day, the effective period and the specified period (if determined) and must be submitted to the Director-General of the competent Labour Standards Inspection Office.

[viii] For workplaces continuously employing at least 10 workers, the rules of employment must contain a provision that a one-year variable working hours system is adopted and submitted to the Director-General of the competent Labour Standards Inspection Office.

4. Rest Periods

(Article 34 of the Labor Standards Act)

○ An employer is required to provide workers with:

[i] a rest period of at least 45 minutes if working hours exceed six hours, or

[ii] a rest period of at least one hour if working hours exceed eight hours.

○ As a general rule, a rest period must be made available [i] in the middle of working hours, [ii] to all workers at the same time or [iii] at the worker's discretion.

Exceptions to rest at the same time

[i] Transport business, commerce, health and hygiene business, entertainment business and other similar business

[ii] Conclusion of a labor-management agreement required for a business not listed above

Example:

○

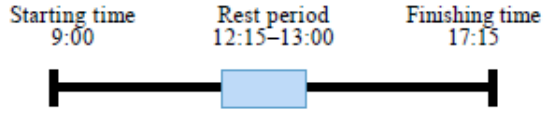
Starting time	Rest period	Finishing time	
9:00	12:00–13:00	18:00	Work for 8 hours and rest for 60 minutes
9:00	12:00–12:45	17:45	Work for 8 hours and rest for 45 minutes
9:00	12:00–12:45 17:45–18:00	18:30	Work for 8 hours and 30 minutes and rest for 60 minutes

×

Starting time	Rest period	Finishing time	
9:00	12:00–12:45	18:00	Work for 8 hours and 15 minutes and rest for 45 minutes
9:00	12:00–12:45	18:30	Work for 8 hours and 45 minutes and rest for 45 minutes

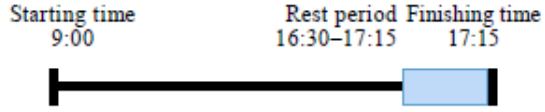
○ Rest period in the middle of working hours

○



○ Rest period at the end of working hours

×



If a rest period is provided at the end of working hours, workers must work 7 hours and 30 minutes without rest. There is no specific rule on when a rest period should be provided, but a rest period should be provided so that workers are able to have a meaningful rest.

* As a general rule, workers can use their rest period at their discretion. Employers should allow workers to go out without restriction during rest periods.

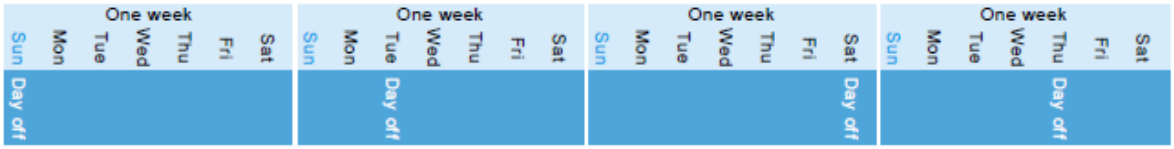
5. Days Off

(Article 35 of the Labor Standards Act)

A day off is a day upon which a worker is not obligated to work under his/her labor contract.

Under the Labor Standards Act, a worker must be provided with at least one day off each week or at least four days off every four weeks. Four days off every four weeks is an exception, so the starting day of the four-week period must be clarified in the rules of employment or other similar rules.

[1] Example of one day off each week



[2] Four days every four weeks

Differences between transfer of a day off and provision of a compensatory day off

Transfer of a day off means exchanging a worker's day off with his/her working day in advance (if a worker is required to work on Sunday, his/her day off, for example, he/she may exchange this day off with Wednesday, for example, in advance).

A compensatory day off is a day off provided as a substitute if a worker works on his/her day off without transferring it in advance.

Differences between transfer of a day off and provision of a compensatory day off

	Transfer of a day off	**Provision of a compensatory day off**
When it takes place	When an employer needs to have a worker work on his/her day off in cases where a labor-management agreement under Article 36 of the Labor Standards Act is not concluded	When an employer provides a worker with a day off as compensation for his/her work on another day off
Requirements	[i] The rules of employment must have a clause for transfer of days off. [ii] A substitute day off must be specified. [iii] The substitute day off should be as close to the original day off as possible. [iv] Transfer of a day off must be communicated to the worker by the day before.	The rules of employment must have a clause for provision of compensatory days off. * Employers can provide compensatory days off at their discretion. * Provision of a compensatory day off for work on a statutory holiday requires a labor-management agreement under Article 36 of the Act.
Designation as a substitute or compensatory day off	An employer designates a substitute day off in advance.	An employer designates a compensatory day off at his/her discretion or in line with the worker's request.
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. * If the working hours of the week including a day off on which a worker is made to work exceed the statutory weekly working hours, the excess working hours are overtime work. In this case, premium wages must be paid for the overtime work.	Premium wages must be paid for work on a day off.

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

(Article 41 and Article 41-2 of the Labor Standards Act)

The provisions of the Labor Standards Act that relate to working hours, rest periods and days off do not apply to the following workers (who are subject to the provisions relating to night work and annual paid leave):

[i] Workers engaged in agricultural or fishery business

[ii] Managers, supervisors and workers handling confidential matters

[iii] Workers engaged in monitoring or intermittent labor

[iv] Workers on day or night duty

The provisions of the Labor Standards Act that relate to working hours, rest periods, days off and premium wages for work at night do not apply to workers covered under the high-level professional system (who are subject to the provisions relating to annual paid leave).

Criteria for managers and supervisors

1. Whether the worker assumes important duties and responsibilities corresponding to a position equivalent to management and is granted appropriate authority for the duties and responsibilities
2. Whether the important duties and responsibilities of the worker make it impractical to apply the regulations on actual working hours to his/her actual work
3. [i] Whether the worker is appropriately treated with regular pay, including basic pay and position allowances

   [ii] Whether the worker is treated more favorably than ordinary workers who do not hold special positions in terms of the rate of lump sum payment, such as bonuses, and basic wages used for the calculation of lump sum payment
4. If the worker is in a staff position, whether the worker is appropriately treated (for example, whether the worker is assigned to a department related to the planning of important management issues, and is regarded as at least equal to a line manager or supervisor)

(Notice No.17 of the Director-General of the Labour Standards Bureau of September 13, 1947 and Notice No.150 of the Director-General of the Labour Standards Bureau of March 14, 1988)

Workers engaged in monitoring or intermittent labor and workers on day or night duty are exempt from the whole or part of the regulations on working hours, rest periods and days off if permitted by the Director-General of the competent Labour Standards Inspection Office.

- Monitoring labor means labor in which a worker is basically supposed to perform monitoring duties at a department and normally has little physical or mental strain.

- Intermittent labor means labor in which a worker is basically supposed to work intermittently and has longer waiting time and shorter working time than ordinary labor.

- Day or night duty means duty in which a worker normally has little need to work during hours from the end of work on a working day to the start of work on the following working day or on a holiday. A worker on day or night duty is supposed to stand by at an office to answer phone calls, patrol for prevention of fires and other disasters or respond to emergencies, including emergency contact.

- A worker handling confidential matters means a worker who always works alongside executives, shares information with them, communicates information to them and handles important secrets about management policies or negotiations on alliances or acquisitions and has to work overtime or on days off to work alongside them, such as an executive secretary to a director. Workers who only perform routine clerical duties, such as serving tea and sweets to visitors, informing executives of their daily schedules and checking internal and external appointments are not included among workers handling confidential matters.

7. Overtime Work and Work on Days Off

(Article 36 of the Labor Standards Act)

○ Overtime work is to be required only for extraordinary or emergency purposes and should be minimal. If an employer unavoidably orders workers to work overtime or on a statutory holiday beyond the statutory working hours, the employer must conclude a labor-management agreement (agreement under Article 36 of the Act) in advance and submit it to the Director-General of the competent Labour Standards Inspection Office.

○ A labor-management agreement is concluded between an employer and a representative of workers, and the representative of workers must be elected as in the case of a representative of workers who gives opinions about the rules of employment.

○ An agreement under Article 36 must specify overtime working hours for each of the following three periods:

[i] For one day
[ii] For one month
[iii] For one year

Extended working hours for the periods [ii] and [iii] must be shorter than 45 hours per month and 360 hours per year (for workers working under a one-year variable working hours system for a period exceeding three months, shorter than 42 hours per month and 320 hours per year).

■ **Upper limits for overtime work**

If there are temporary special circumstances for which an employer unavoidably orders a worker to work overtime beyond the extension limits, the employer can provide a special clause in an agreement under Article 36 in advance.

Even in such case, 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.

Furthermore, a five-year grace period is granted for businesses and services of construction, driving of automobiles, physicians, and sugar production in Kagoshima and Okinawa prefectures. Research and development of new technologies and new products are exempted from the application of the upper limits.

○ Examples of special circumstances
- Budget and settlement affairs
- Busy times during bonus shopping seasons
- When there are tight delivery deadlines
- Responses to large-scale complaints
- Responses to mechanical troubles

○ Examples of circumstances not considered to be special circumstances
- Circumstances where specific reasons such as those due to operational necessity, busy times and an employer's needs cannot be presented
- Circumstances that obviously arise throughout the year

○ Example of a special clause included in an agreement under Article 36

The working hours that can be extended for a certain period are 45 hours per month and 360 hours per year. However, working hours can be further extended through labor-management consultation up to six times up to 60 hours per month and up to 420 hours per year if an influx of orders significantly exceeding regular output makes delivery deadlines significantly tight. The rate for premium wages is 30 percent for hours worked in excess of 45 hours per month and 35 percent for hours worked in excess of 360 hours per year.

■ **Overtime work by workers engaged in dangerous and injurious work**

The maximum hours of overtime work by workers engaged in any of the types of dangerous and injurious work specified by laws and regulations (nine types of work) are two hours per day (Article 18 of the Regulation for Enforcement of the Labor Standards Act).

○ Examples of dangerous and injurious work

- Work for which workers handle a large quantity of cold materials, and work in an extremely cold place

(e.g. work inside a freezer storage)

- Hard work such as work for which workers handle heavy materials

(e.g. manually lifting, carrying and putting down items weighing 30 kg or more)

■ **Limitation on extended working hours under the Act on the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care and Family Care Leave (the Child Care and Family Care Leave Act)**

If a worker who takes care of [i] a child younger than elementary school age or [ii] a family member who requires care makes a request, an employer is not allowed to make the worker work overtime more than 24 hours per month and more than 150 hours per year unless failure to extend working hours would impede normal business operations (Articles 17 and 18 of the Child Care and Family Care Leave Act).

Example of a Written Notification of an Agreement under Article 36

[Form 9 (Re. Article 16, paragraph (1))]

Extension of working hours and work on days off should be limited to the minimum necessary. Parties should conclude an agreement in consideration of this principle. The employer is under an obligation to pay attention to ensure safety under Article 5 of the Labor Contracts Act even in the case of having workers work within the agreed working hours.

◆ Transcribe the details of the concluded agreement under Article 36 in this form and submit it.
You can conclude an agreement under Article 36 with this form. In that case, the signature with or without the seal of a person representing the workers are required.
Any form is accepted if only indispensable matters are all entered.

◆ A notification of an agreement under Article 36 may also be filed online.
◆ Columns with the indication "at will" may be left blank.

Top side

Notification of Agreement on Overtime Work/Work on Days Off

Labor insurance No.	□□□□□□□□□□□□□□
Corporate No.	□□□□□□□□□□□□□

Enter labor insurance number and corporate number.

Type of business	Name of business	Place of business (telephone number)	Effective term
Metal product manufacturing	○○Metal Industries	(〒○○○−○○○○) 1-2-3, ○○ Town, ○○ City (TEL ○○○−○○○○−○○○○)	One year from April 1, ○○○○

An agreement should be concluded for each workplace (plant, branch, office, etc.).

Decide the period during which the agreement is effective. One year should be preferable.

Overtime work

	Specific reasons for overtime work	Type of work	Number of workers (aged 18 or older)	Regular working hours (1 day) (at will)	Working hours that can be extended: 1 day — Hours exceeding the statutory working hours	1 day — Hours exceeding the regular working hours (at will)	1 month (up to 45 hours for (i) and 42 hours for (ii)) — Hours exceeding the statutory working hours	1 month — Hours exceeding the regular working hours (at will)	1 year (up to 360 hours for (i) and 320 hours for (ii)) — Hours exceeding the statutory working hours	1 year — Hours exceeding the regular working hours (at will)
									Starting date (MM/DD/YY)	April 1, ○○○○
(i) Workers not falling under (ii)	Concentration of orders	Designing	10	7.5 hours	3 hours	3.5 hours	30 hours	40 hours	250 hours	370 hours
	Responses to defects in products	Inspection	10	7.5 hours	2 hours	2.5 hours	15 hours	25 hours	150 hours	270 hours
	Extra orders, deadline change	Assembly	20	7.5 hours	2 hours	2.5 hours	15 hours	25 hours	150 hours	270 hours
(ii) Workers working under a one-year variable working hours system	Clerical work for account settlement at the month end	Accounting	5	7.5 hours	3 hours	3.5 hours	20 hours	30 hours	200 hours	320 hours
	Stocktaking	Purchasing	5	7.5 hours	3 hours	3.5 hours	20 hours	30 hours	200 hours	320 hours

Enter the starting date for the calculation of the upper limit for annual working hours. The starting date must be the same day for the relevant one year irrespective of the effective term of the agreement.

Regarding workers working under a one-year variable working hours system for a period exceeding three months, use the columns for (ii).

Decide specific reasons.

Clearly decide the scope of each work.

Decide the number of hours exceeding the statutory working hours per day.

Decide the number of hours exceeding the statutory working hours per month. The upper limit is 45 hours for (i) and 42 hours for (ii).

Decide the number of hours exceeding the statutory working hours per year. The upper limit is 360 hours for (i) and 320 hours for (ii).

Work on days off

Specific reasons for work on days off	Type of work	Number of workers (aged 18 or older)	Regular days off (at will)	The number of statutory days off on which the employer can have workers work	Starting and finishing times on statutory days off on which the employer can have workers work
Concentration of orders	Designing	10	Saturdays, Sundays and national holidays	1 day per month	8:30 - 17:30
Extra orders, deadline change	Assembly	20	Saturdays, Sundays and national holidays	1 day per month	8:30 - 17:30

Irrespective of the numbers of hours agreed as above, 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. ☑ (Check the box.)

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. Confirm this principle between labor and management and be sure to check the box. If the box is not checked, the written notification is not effective.

Effective date of the agreement: March 12, ○○○○

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
Title: Inspection Division Chief
Name: Yamada Hanako

A supervisor cannot be a representative of the workers.

When intending to have the written notification also function as the written agreement, the signature with or without the seal of a person representing the workers is required.

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

If there is no labor union consisting of a majority of the workers, make it clear that the party to the agreement under Article 36 is to be selected. Then, select a person representing a majority of the workers by vote, a show of hands or any other method, and enter that method. Appointment by the employer and selection based on the employer's intention are not allowed. If the relevant checkboxes are not checked, the document fails to conform to the requirements for formality as a notification.

☑ 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.)

March 15, ○○○○

When submitting a notification using the former Form, the statements in the dotted frame must be entered in the margin or attach a paper on which the relevant statements are entered.

Employer
Title: Plant Manager
Name: Tanaka Taro

When intending to have the written notification also function as the written agreement, the signature with or without the seal of the employer is required.

To the Director-General of the ○○ Labour Standards Inspection Office

8. Calculation of Working Hours

As the Labor Standards Act contains regulations on working hours, days off and night work, employers are responsible for properly understanding and managing the working hours of workers concerning whether workers work in accordance with the regulations.

However, the Act has an exception to these regulations: a provision for work deemed to have been conducted outside workplaces. This provision applies if employers find it difficult to calculate the working hours of workers, such as field sales people.

The Act also allows a discretionary work system even for work in workplaces if the means of executing work and the allocation of time need to be left largely to the discretion of workers due to the nature of the work. Under this system, employers can deem workers to have worked for the hours as determined in a labor-management agreement without directly managing their working hours.

■ Work deemed to have been conducted outside workplaces (Article 38-2 of the Labor Standards Act)

In cases where a worker engages in work outside of the workplace during all or part of his/her working hours, and it is difficult to calculate actual working hours, the worker is deemed to have worked for the regular working hours.

When a worker must work outside the workplace in excess of the regular working hours, the worker is deemed to have worked for hours considered normally necessary to perform the work or for hours as determined in a labor-management agreement.

However, the provision for work deemed to have been conducted outside workplaces is not applicable when a group of workers work outside the workplace and a worker in charge of managing their working hours is included in that group or when a worker works outside the workplace in accordance with concrete work instructions and then returns to the workplace.

■ Discretionary work system for professional work (Article 38-3 of the Labor Standards Act)

Discretionary work system for management-related work (Article 38-4 of the Labor Standards Act)

Under a discretionary work system, an employer does not give concrete instructions about the means of executing work or the allocation of time due to the nature of the work and deems workers to have worked for the working hours as agreed to between labor and management, irrespective of actual working hours.

◇ Discretionary Work System for Professional Work

Specified by the Ministerial Regulations	Specified by the Ministerial Notice
(1) Research and development of new products or technologies or research in cultural or natural sciences	(6) Work of copywriters (7) Work of system consultants
(2) Analysis or design of information processing systems	(8) Work of interior coordinators
(3) News gathering or editing in the newspaper, publication or broadcasting business	(9) Creation of game software
(4) Development of new designs for apparel, interior decoration, industrial products, advertisements, etc.	(10) Work of financial analysts (11) Development of financial products based on knowledge of financial engineering
(5) Work of producers or directors in the business of making broadcast programs, films, etc.	(12) Teaching and research at universities (13) Work of certified public accountants (14) Work of attorneys (15) Work of architects (first-class registered architects, second-class registered architects and registered architects for wooden buildings) (16) Work of real estate appraisers (17) Work of patent attorneys (18) Work of tax accountants (19) Work of small and medium enterprise management consultants
Contained in a labor-management agreement	
(1) Work covered by the discretionary work system	(5) Measures to handle complaints from workers engaged in the covered work
(2) Hours that workers are deemed to have been worked	(6) The effective term of the agreement
(3) Absence of the employer's concrete instructions about the means of executing work and the allocation of time	(7) Retention of records on matters (4) and (5) for each worker engaged in the covered work (during the effective term of the agreement and for three years thereafter)
(4) Measures to secure the health and welfare of workers engaged in the covered work	

◇ Discretionary Work System for Management-related Work

- Under this system, workers are deemed to work for the predetermined working hours as long as they meet certain requirements.
- Work covered by this system is planning, researching and analyzing matters regarding business operation.
- The introduction of this system requires the establishment of a labor-management committee.
- A labor-management committee must be composed of equal numbers of members from labor and management and must make a resolution on the following matters by a four-fifths majority vote of the members:
  (1) The scope of work covered by the system
  (2) The scope of workers engaged in the covered work
  (3) Hours that workers are deemed to have been worked

(4) Measures to secure the health and welfare of workers engaged in the covered work in accordance with their working hours

(5) Measures to handle complaints from workers engaged in the covered work

(6) The employer's obligation to obtain consent from workers for deeming them to have worked for the working hours stated in (3) and the prohibition of the employer from disadvantageously treating workers who do not give such consent

(7) The effective period of the resolution

(8) Retention of records on matters (4), (5) and (6) for each worker engaged in the covered work (during the effective term of the resolution and for three years thereafter)

・This resolution must be submitted to the competent Labour Standards Inspection Office. The measures stated in (4) must be reported to the competent Labour Standards Inspection Office every six months.

9. Annual Paid Leave

(Article 39 of the Labor Standards Act)

○ An employer is required to grant annual paid leave of 10 working days to workers who have been employed continuously for six months from the day of employment and who have reported to work on at least 80 percent of the total working days. For each additional year of continuous service after the aforementioned six months, an employer must grant workers annual paid leave of the number of days corresponding to the years of continuous service given in the table below.

* The same rule applies to part-time workers, including temporary workers, and managers and supervisors.

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	6.5 years or longer
Days granted	10 days	11 days	12 days	14 days	16 days	18 days	20 days

(e.g.) A worker employed on April 5 is granted 10 days of annual paid leave on October 5 of the same year. After that, the worker is granted the applicable number of days given in the table above as annual paid leave on October 5 of each year. The length of service is calculated from the day of employment, irrespective of payroll cutoff dates and work shift periods.

Annual paid leave for part-time workers

(For workers who are required to work not more than four days and less than 30 hours per week)

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		8 days	9 days	10 days	11 days
2 days	73-120 days	3 days	4 days		5 days	6 days		7 days
1 day	48-72 days	1 day	2 days			3 days		

* The number of days of annual paid leave to be granted is determined on the basis of "regular weekly working days" if regular working days are set on a weekly basis. In other cases, the number of days granted as annual paid leave is determined on the basis of "regular yearly working days."

* The number of days of annual paid leave is calculated on the basis of the number of regular working days as of the day of granting annual paid leave even if there is a change in the contract concerning the number of working days in the middle of the year.

○ For each day of annual paid leave, an employer is required to pay the worker:

[i] the average wage,

[ii] the wage normally paid for regular working hours, or

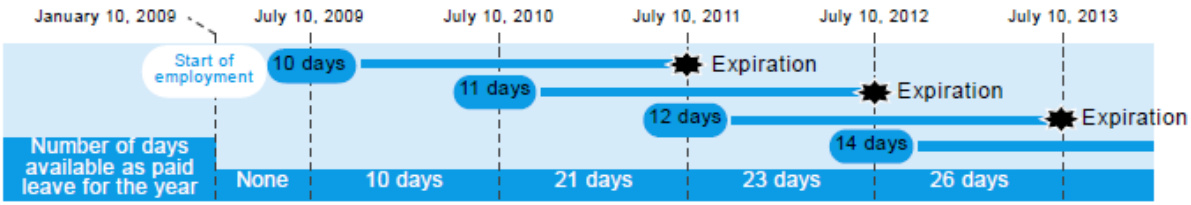
[iii] a wage equal to the daily amount for standard remuneration under the Health Insurance

Act (if specified in a labor-management agreement).

■ Carryover

Annual paid leave expires in two years from the day upon which it is granted. Any days of annual paid leave not used within one year from such day are carried over to the following year and added to the number of days newly granted as annual paid leave for the following year. However, if the unused days of annual paid leave are not used in the following year either, they expire.

Number of days granted as annual paid leave, number of days carried over, and their expiration



○ An employer has no right to refuse a worker's request for annual paid leave.

A worker can take annual paid leave without the company's (employer's) approval as long as the worker assigns a desired date of leave by the day before. As an exception, the employer has the right to ask the worker to take paid leave on a different day if the worker's leave on the desired day may obstruct normal business operation. However, employers can exercise this right only in limited situations; they cannot exercise the right for insignificant reasons such as being busy or unavailability of substitute workers.

► An employer cannot specify how workers should spend their annual paid leave.

► An employer can allow workers to carry over their annual paid leave beyond the expiration date in their favor.

■ Other rules on annual paid leave

○ An employer is not allowed to give workers who have taken annual paid leave disadvantageous treatment such as wage reduction (or to give better treatment to workers who do not take annual paid leave than those who have taken paid leave).

○ If a labor-management agreement contains a provision concerning annual paid leave schedules, labor and management can make prior adjustments for dates upon which workers can take annual paid leave while reserving five days of annual paid leave for their discretionary use (in this case, if reserved annual paid leave for some workers are less than five days, the employer must grant them additional annual paid leave to make up for the shortage).

- A labor-management agreement may specify the provision to allow workers to take up to five days of annual paid leave on an hourly basis. If such agreement is reached at a workplace, the workers can decide whether to take their annual paid leave on a daily or hourly basis at their discretion.

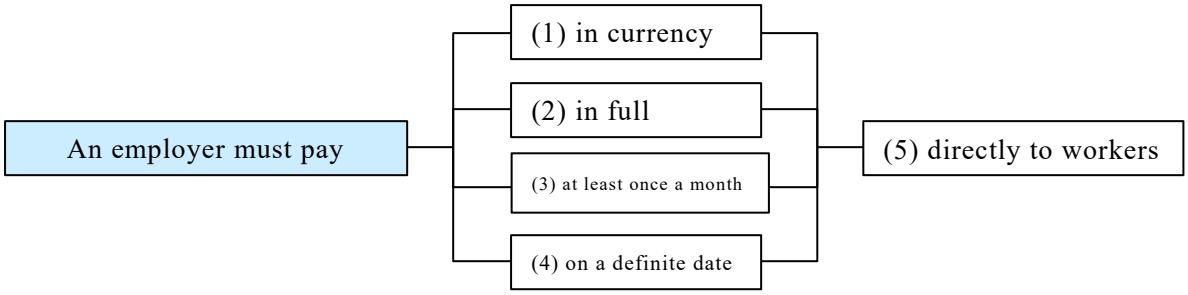
- An employer must have each worker take annual paid leave for five days within one year from the day of granting him/her annual paid leave (the base date) by designating the timings to take leave (the number of days of annual paid leave that each worker requests and takes discretionally and the number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

- An employer must prepare a book to manage annual paid leave for each worker and preserve it for three years.

10. Wages

Under the Labor Standards Act, the expression "wages" refers to all payments made by an employer to a worker as remuneration for his/her labor, regardless of the names of such payments. Wages thus include monthly basic pay and allowances as well as bonuses and retirement allowances, whose payment conditions are clarified in advance.

■ Five principles of payment of wages (Article 24 of the Labor Standards Act)



Exceptions

(1) Something other than currency can be paid.	⇒	If a law or collective agreement* provides for in-kind wages
(2) Taxes and other expenses can be deducted from wages.	⇒	If a law (on taxes and other public charges) or labor-management agreement provides for such deduction
(3) Wages can be paid at least once a month at indefinite dates.	⇒	If the wages are extraordinary wages, bonuses or allowances, or efficiency allowances or other allowances whose assessment period exceeds one month

* A collective agreement is a document related to working conditions and other matters to which a labor union and an employer affix their signatures or their names and seals. Any part of a labor contract that contravenes the standards for working conditions and other treatment of workers given in the collective agreement becomes void. In this case, the invalidated part of the labor contract is governed by the standards of the collective agreement (Articles 14 and 16 of the Labor Union Act).

■Payment of wages into bank accounts

With the consent of a worker, an employer can pay the worker's wages into a bank account in the worker's name designated by the worker so that the wages can be paid to the worker on the predetermined pay day.

■ Minimum wages (Minimum Wages Act)

○ The minimum wage system is a system under which the government sets the least amounts of wage under the Minimum Wages Act, and employers (business operators) must pay their employees wages not less than those minimum wages. The minimum wages apply to all workers, including part-time workers, the youth doing part-time jobs.

○ The regional minimum wage applies to all workers working at workplaces and their employers. Additionally, when a "special minimum wage" is specified, that wage is to be applied. When both minimum wages are applicable, an employer must pay wages not less than the higher minimum wage.

○ Regarding a company having multiple workplaces in multiple prefectures, the applicable prefectural minimum wage is the minimum wage of the prefecture where each workplace is located, not of the prefecture where the company's head office is located.

○ See the lists of applicable minimum wages (p.80) for the regional minimum wage and special minimum wage (by industry).

○ The minimum wages are fixed on an hourly basis. The wages on a monthly or daily basis are converted into hourly wages for comparison.

－How to compare wages with the minimum wages－

1. Hourly wage: Hourly wage ≥ Minimum wage (hourly)
2. Daily wage: Daily wage / Average regular working hours per day ≥ Minimum wage (hourly)
3. Weekly or monthly wage: Weekly (monthly) wage / Average working hours per week (month) ≥ Minimum wage (hourly)
4. Commission-based salary: Commission-based salary (total amount calculated for the entirety of the calculation period) / Total working hours for commission-based salary during the calculation period ≥ Minimum wage (hourly)

○ When converting the minimum wage into an hourly basis, the following allowances or benefits are not included:

1. Diligent or perfect attendance allowances, commuting allowances and family allowances
2. Occasional allowances (ex. bonus for a newly married employee)
3. Wages paid periodically with regular intervals of more than one month (such as bonuses)
4. Payments for overtime work, work on days off and late-night work

■ Allowance for absence from work (Article 26 of the Labor Standards Act)

For a day upon which a worker is absent from work for reasons attributable to the company (such as store renovation and production adjustment at plants), the company is required to pay the worker an allowance equal to at least 60 percent of the worker's average wage (allowance for absence from work).

■ Average wages (Article 12 of the Labor Standards Act)

○ An average wage is used to calculate the following amounts:

(1) Allowance for dismissal without advance notice
(2) Allowance for absence from work
(3) Wage for annual paid leave
(4) Industrial accident compensation, such as compensation for absence from work
(5) Maximum pay reduction

○ An average wage is calculated on the basis of the total wages paid for a period of three months preceding the latest payroll cutoff date.

Principle

$$\text{Average wage} = \frac{\text{Total wages for the latest three months (total payment)}}{\text{Total number of days of the three months (calendar days)}}$$

Note: A different calculation formula applies in such cases as where a calculation period includes a period of absence from work before and after childbirth.

Minimum average wage (if the wage is determined on a daily, hourly or piecework basis)

$$\frac{\text{Total wages for the latest three months (total payment)}}{\text{Total number of days of the three months (calendar days)}} \times 0.6$$

Note: A different calculation formula applies in such cases as those where part of the wage is determined on a monthly basis.

■ Guaranteed payment at piece rates (Article 27 of the Labor Standards Act)

For workers employed on a piece-rate or subcontract basis, an employer is required to guarantee a fixed amount of wages proportionate to their working hours so that their earned wages do not decrease unreasonably even in the event that the performed work volume is low.

The amount of guaranteed wages must be enough to guarantee the worker an income not significantly lower than his/her normal earned wages.

■ Roster of workers (Article 107 of the Labor Standards Act) and wage ledger (Article 108 of the Labor Standards Act)

○ An employer is required to prepare a roster of workers and a wage ledger for each worker at each workplace, such as the headquarters, the head office and business offices, and enter the following information therein.

◇ Information to be entered in a wage ledger: The records for each worker must be kept for five years (for three years for the time being) from the date of the last entry.

(1) Name
(2) Gender
(3) Wage calculation period
(4) Working days
(5) Working hours
(6) Hours of overtime work, work on days off and night work
(7) Amounts of basic wages, allowances and other wages
(8) Amount of wage deduction

◇ Information to be entered in a roster of workers: The records for each worker must be kept for five years (for three years for the time being) from the date of retirement.

(1) Name
(2) Date of birth
(3) Personal history
(4) Gender
(5) Present address
(6) Type of work engaged in (not necessary for workplaces continuously employing fewer than 30 workers)
(7) Date of hiring
(8) Date of and reason for separation from employment (in the case where the reason for separation from employment is dismissal, the reason must be included)
(9) Date and cause of death

○ As long as all necessary information is included, any format may be used. For example, it is permissible to combine a wage ledger with a withholding ledger. An employer is allowed to prepare and keep both the roster of workers and the wage ledger in the form of electronic data, but must be prepared to readily display the two on a computer screen and submit copies thereof whenever requested by a labor standards inspector.

11. Premium Wages

(Article 37 of the Labor Standards Act)

If an employer has a worker work overtime or at night (in principle, from 10 p.m. to 5 a.m.), the employer is required to pay the worker a premium wage at a rate that is not less than 25 percent of his/her hourly wage. If an employer has a worker work on a statutory holiday, the employer is required to pay the worker a premium wage at a rate that is not less than 35 percent of his/her hourly wage.

For more than 60 hours of overtime work per month, the rate of premium wages is not less than 50 percent.

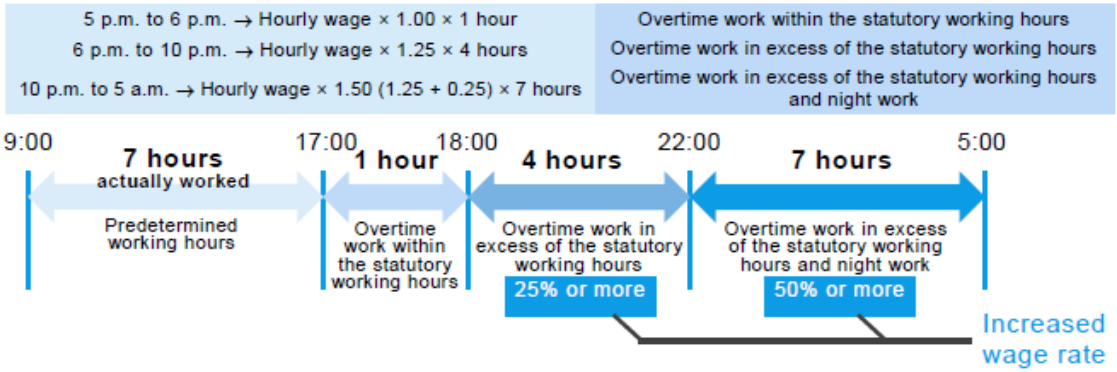
* Applicable to small and medium-size enterprises from April 1, 2023.

* Small and medium-size enterprises that are temporarily exempted from application

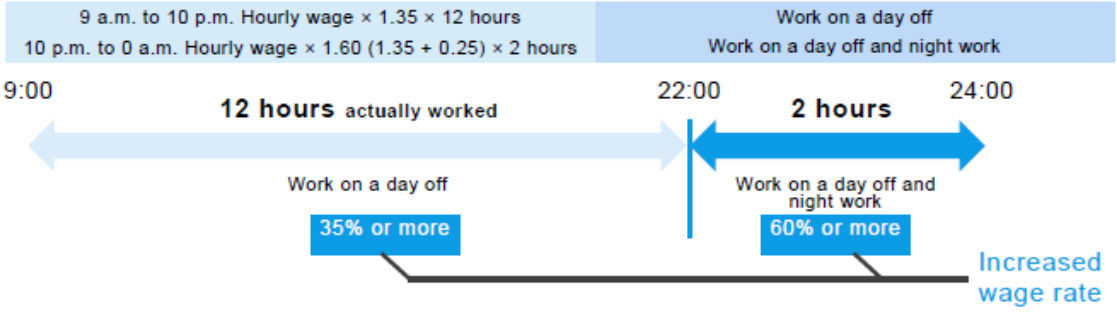
(1) The amount of stated capital or the total investment			(2) The number of workers continuously employed	
Retail business:	50 million yen or less	or	Retail business:	50 workers or fewer
Service business:	50 million yen or less		Service business:	100 workers or fewer
Wholesale business:	100 million yen or less		Wholesale business:	100 workers or fewer
Other business:	300 million yen or less		Other business:	300 workers or fewer

Note: The amount of stated capital, the total investment and the number of workers continuously employed are determined not on the basis of the location of a business, but on the basis of an enterprise (corporation or proprietor).

Example 1 Premium wage rate for overtime work (regular working hours from 9 a.m. to 5 p.m. with a one-hour rest)



Example 2 Premium wage rate for work on a statutory holiday (work from 9 a.m. to 0 a.m. with a one-hour rest)



* Wages used for calculating increased wages exclude family allowances, commuting allowances, separation allowances, child education allowances, housing allowances, extraordinary wages and wages paid for each period exceeding one month. Whether these excluded allowances and wages are applicable to allowances and

wages is determined on the basis of their nature, rather on the basis of their name.

Example 3 Premium wage per hour for workers paid by the month

Monthly wage / Predetermined monthly working hours × 1.25 (or 1.35)

* If predetermined monthly working hours differ from month to month, the monthly average of predetermined yearly working hours is used instead.
* Increased wages for night work must also be paid to managers and supervisors.

■ **Substitute leave (Article 37, paragraph (3) of the Labor Standards Act)**

○ If a labor-management agreement is concluded at a workplace, an employer is allowed to grant paid leave to workers who have worked overtime for more than 60 hours per month, instead of paying them premium wages at a statutory raised premium wage rate (e.g. 25 percent, the difference between 25 percent and 50 percent).

○ Even if workers have taken this paid leave, the employer still must pay them premium wages at a rate that is not less than 25 percent.

■ **Obligation to endeavor to raise premium wage rates**

○ Overtime work beyond the extension limits requires the prior conclusion of a labor-management overtime agreement with a special clause. Under this labor-management agreement, the employer must be committed to

[i] setting the premium wage rate for overtime work beyond the extension limits;

[ii] endeavoring to raise this rate above the statutory premium wage rate (25%); and

[iii] endeavoring to minimize overtime work in excess of 45 hours per month.

■ **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.

12. Protection of Women

■ **Limitation on belowground work (Article 64-2 of the Labor Standards Act)**

An employer is prohibited from assigning female workers to any belowground work if they are pregnant or women within one year after childbirth who notify the employer of their intention not to work belowground. An employer is also prohibited from assigning other female workers to belowground excavations or other belowground work specified by Order of the Ministry of Health, Labour and Welfare as work injurious to women (Article 1 of the Rules on Labor Standards for Women).

■ **Limitation on dangerous and injurious work (Article 64-3 of the Labor Standards Act)**

An employer is prohibited from assigning expectant or nursing mothers (referring to pregnant women and women within one year after childbirth) to work involving the handling of heavy materials, work in places in which harmful gas is generated and other work injurious to pregnancy, childbirth, nursing and the like. Among these kinds of work, work involving the handling of heavy materials and work in places in which harmful gas is generated is also prohibited for female workers other than expectant or nursing mothers. The scope of injurious work and the scope of female workers prohibited from being assigned to such work are specified by Order of the Ministry of Health, Labour and Welfare (Articles 2 and 3 of the Rules on Labor Standards for Women).

■ **Maternity leave before and after childbirth, etc. (Article 65 of the Labor Standards Act)**

○ If a female worker who is expected to give birth within six weeks (or 14 weeks in case of multiple pregnancy) requests leave, an employer is not allowed to make her work (the delivery day is included in maternity leave before childbirth).

○ In principle, an employer is not allowed to make 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 to work permitted by a doctor.

○ In the event that a pregnant woman has so requested, an employer must transfer her to other light activities.

"Delivery" and "giving birth" mean giving birth to a baby after the fourth month of pregnancy, including cases of

stillbirth.

■ **Limitation on working hours and work on days off, etc. of expectant or nursing mothers (Article 66 of the Labor Standards Act)**

An employer is not allowed to assign expectant or nursing mothers to overtime work, work on days off or night work if they request not to be assigned. Even if an employer adopts a variable working hours system (excluding the flextime system), the employer is not allowed to make expectant or nursing mothers work in excess of the statutory working hours.

■ **Time for child care (Article 67 of the Labor Standards Act)**

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.

■ **Menstrual leave (Article 68 of the Labor Standards Act)**

If a female worker for whom work during her menstrual period would be especially difficult requests leave (she can take this leave on a half-day or hourly basis), an employer shall not make the female worker work during her menstrual period.

13. Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment

The Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment (hereinafter referred to as the "Equal Employment Opportunity Act") prohibits discrimination on the basis of sex and disadvantageous treatment by reason of marriage, pregnancy, childbirth, etc. Additionally, the Act requires employers to take countermeasures against sexual harassment in the workplace and measures to prevent harassment in relation to pregnancy and childbirth, etc. by superiors and coworkers.

－ Outline of the Equal Employment Opportunity Act －

Prohibition of discrimination on the basis of sex (Articles 5 and 6 of the Equal Employment Opportunity Act)

Discrimination on the basis of sex is prohibited in relation to the recruitment, employment, assignment (including allocation of duties and grant of authority), promotion, demotion, and training of workers, as well as regarding fringe benefits within a certain scope, change in job type and employment status, encouragement of retirement, mandatory retirement age, dismissal, and renewal of the labor contract.

Prohibition of indirect discrimination (Article 7 of the Equal Employment Opportunity Act)

Out of criteria upon recruitment and employment by reasons other than gender, applying those specified by Order of the Ministry of Health, Labour and Welfare as being highly likely to constitute substantial discrimination by reason of gender is prohibited if there are no reasonable grounds to apply them.

[Acts prohibited as specified by Order of the Ministry of Health, Labour and Welfare]

- Apply criteria concerning the worker's height, weight or physical strength upon recruitment and employment
- 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
- Apply criteria concerning the worker's experience of having been reassigned to other workplaces upon promotion

Prohibition of disadvantageous treatment by reason of marriage, pregnancy, childbirth, etc. (Article 9 of the Equal Employment Opportunity Act)

- It is prohibited to establish a provision supposing marriage, pregnancy or childbirth as a reason for separation from employment of female workers.
- It is prohibited to dismiss female workers for marriage.

・It is prohibited to dismiss or give disadvantageous treatment to female workers by reason of pregnancy, childbirth, or for requesting maternity leave, or by other reasons specified by Order of the Ministry of Health, Labour and Welfare.
・Dismissals of female workers who are pregnant or in the first year after childbirth are to be void unless the employers prove that dismissals are not by reason of pregnancy, etc.

Countermeasures against sexual harassment (Article 11 of the Equal Employment Opportunity Act)

Employers are required to take management measures to prevent problems caused by sexual harassment in the workplace. Dismissal and other discriminatory treatment on grounds such as that a worker has consulted with the employer about sexual harassment are prohibited.

Countermeasures against harassment in relation to pregnancy and childbirth, etc. (Article 11-3 of the Equal Employment Opportunity Act

Employers are required to take management measures to prevent harassment in relation to pregnancy and childbirth, etc. in the workplace. Dismissal and other discriminatory treatment on grounds such as that a worker has consulted with the employer about harassment in relation to pregnancy and childbirth, etc. are prohibited.

Measures in connection with maternity health care (Articles 12 and 13 of the Equal Employment Opportunity Act)

Employers are required to secure the necessary time off so that female workers who are pregnant or in the first year after childbirth may receive the health guidance and medical examinations and take the necessary measures to enable them to comply with the directions of doctors, etc. based on the results of these health guidance and medical examinations.

Dispute settlement assistance system (Articles 17 and 18 of the Equal Employment Opportunity Act)

When any disputes arise between workers and employers, workers can seek assistance from the directors of Prefectural Labour Bureaus or conciliation by the competent Disputes Adjustment Commission.

14. Child Care and Family Care Leave Act

To help workers balance work and family, employers are expected to improve their employment environments to ensure employment management that complies with the Child Care and Family Care Leave Act.

Employers are also required to take measures to prevent harassment in the workplace by superiors or coworkers in relation to requests for or acquisition of child care or family care leave.

－ Outline of the Child Care and Family Care Leave System －

Child care leave (Articles 5 and 9-6 of the Child Care and Family Care Leave Act)

- A worker can take child care leave for his/her child until the child reaches one year of age 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. If the worker cannot find a place for the child at a day care center, the worker can take child care leave for the child until the child reaches two years of age.)

Fathers' child care leave (parental leave) (Articles 9-2 and 9-5 of the Child Care and Family Care Leave Act)

- A male worker can request parental leave for his child for up to four weeks, separately from child care leave, within eight weeks after child birth on two occasions by dividing the leave.
- Limited to cases where a worker has concluded a labor-management agreement, the worker may engage in work during the parental leave within the range agreed thereby (there is the upper limit for days available for work).

Family care leave (Article 2, item (iv) and Article 11 of the Child Care and Family Care Leave Act)

- For one subject family member, a worker can take family care leave three times up to 93 days in total.
- The subject family members of a worker include his/her spouse, parents and children, the spouse's parents, and his/her grandparents, brothers, sisters and grandchildren.

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 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.
- A worker can take sick/injured child care leave for the purpose of taking care of his/her sick or injured child, or having his/her child get a vaccination or a medical check-up.
- Sick/injured child care leave may be taken on a day or hourly basis.

Nursing leave (Article 16-5 of the Child Care and Family Care Leave Act)

- A worker can take up to five days off for nursing leave a year if he/she has one subject family member and up to 10 days off for nursing leave a year if he/she has two or more subject family members.
- A worker can take days off for nursing leave for the purpose of looking after or taking care of a subject family member in a care-requiring condition.
- Nursing leave may be taken on a day or hourly basis.

Measures to shorten working hours for child care (Article 23, paragraph (1) of the Child Care and Family Care Leave Act)

- A worker who takes care of a child under three years of age can use a shortened working hours system in which the regular daily working hours are shortened to six hours in principle.

Measures to shorten working hours for family care (Article 23, paragraph (3) of the Child Care and Family Care Leave Act)

- Employers are required to take any of the following measures for workers who take care of their family members at least twice for three or more consecutive years: Shortened working hours system, flextime system, staggered working hours system, financial assistance for nursing care service used by workers or other similar measures

Limitation on work in excess of regular working hours for child care (Article 16-8 of the Child Care and Family Care Leave Act)

- A worker who takes care of a child under three years of age is exempt from work in excess of his/her regular working hours per day if he/she makes a request.

Limitation on work in excess of regular working hours for family care (Article 16-9 of the Child Care and Family Care Leave Act)

- A worker who takes care of a subject family member in a care-requiring condition is exempt from work in excess of his/her regular working hours per day if he/she makes a request.

Limitation on overtime work for child care and family care (Articles 17 and 18 of the Child Care and Family Care Leave Act)

- If a worker who takes care of a pre-school child or a family member makes a request, the worker can limit his/her overtime working hours to 24 hours per month and 150 hours per year.

Limitation on night work for child care and family care (Articles 19 and 20 of the Child Care and Family Care Leave Act)

- If a worker who takes care of a pre-school child or a family member makes a request, the worker is exempt from work at night (from 10 p.m. to 5 a.m.).

Provision of information to and confirmation of intention with individual notifiers (Article 21 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 (including that for fathers), etc. and confirm whether he/she intends to take leave or not, individually.

Development of the employment environment (Article 22 of the Child Care and Family Care Leave Act)

・In order to ensure workers' smooth applications for child care leave and parental leave, employers should take any of the following measures.

Provision of training concerning child care leave and parental leave; Development of consultation systems concerning child care leave and parental leave; Compilation and provision of concrete examples of their workers' acquisition of child care leave and parental leave; Dissemination of information regarding their own systems and policies concerning child care leave and parental leave internally to workers

Consideration for reassignment (Article 26 of the Child Care and Family Care Leave Act)

・If an employer reassigns a worker and thus changes his/her workplace, the employer is required to consider the worker's situation of caring for a child or family member.

Disclosure of the status of workers' acquisition of child care leave (Article 22-2 of the Child Care and Family Care Leave Act)

(To be enforced on April 1, 2023)

・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.

Prohibition of disadvantageous treatment (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)

・Employers are prohibited from dismissing or otherwise treating disadvantageously workers who have applied for or used child care leave, family care leave, sick/injured child care leave, nursing leave, the limitation on work in excess of regular working hours, the limitation on overtime work, the limitation on night work, measures to shorten regular working hours or the like, or who have filed a notification concerning their own or their spouses' pregnancy, childbirth, etc., or did not report the days they were available to work, etc. during parental leave nor gave consent thereto.

Countermeasures against harassment in relation to child care and family care leave (Article

25 of the Child Care and Family Care Leave Act)

・Employers are required to take management measures to prevent harassment in relation to child care and family care leave in the workplace. Dismissal and other discriminatory treatment on grounds such as that a worker has consulted with the employer about harassment in relation to child care and family care leave are prohibited.

Dispute settlement assistance system (Articles 52-4 and 52-5 of the Child Care and Family Care Leave Act)

・To settle labor-management disputes over child care or family care leave or the like, both employers and workers can seek assistance from the directors of Prefectural Labour Bureaus or conciliation by conciliation committee members.

15. Countermeasures against Power Harassment in the Workplace

Countermeasures against power harassment (Article 30-2 of the Labor Policies Comprehensive Promotion Act)

Employers are required to take management measures to prevent power harassment in the workplace. Dismissal and other discriminatory treatment on grounds such as that a worker has consulted with the employer about power harassment in the workplace are prohibited.

Dispute settlement assistance system (Articles 30-5 and 30-6 of the Labor Policies Comprehensive Promotion Act)

When any disputes arise between workers and employers, workers can seek assistance from the directors of Prefectural Labour Bureaus or conciliation by the competent Disputes Adjustment Commission.

16. Protection of Minors (Persons Under 18 Years of Age)

■ **Minimum age (Article 56 of the Labor Standards Act)**

In principle, an employer is not allowed to employ a child until the first 31st of March that comes on after his/her 15th birthday (the end of the fiscal year in which he/she graduates from junior high school).

With permission from the Director-General of the competent Labour Standards Inspection Office, however, an employer is allowed to engage children aged 13 or older only in light work that is not injurious to their health or welfare in non-industrial business, such as newspaper delivery, outside their school hours. The same rule applies to child actors under 13 years of age in films and theatrical performances.

■ **Age certificate (Article 57 of the Labor Standards Act)**

An employer of a minor is required to keep a certificate showing the age of the minor at the workplace. A certificate of matters stated on the residence certificate can serve as a substitute for this age certificate. For a child who an employer employs with permission, the employer is required to keep at the workplace a certificate from the head of such child's school stating that the employment does not hinder his/her school attendance and written consent from the person who has parental authority for such child.

■ **Working hours and days off of minors (Article 60 of the Labor Standards Act)**

As the statutory working hours apply strictly to minors, in principle, an employer is not allowed to have minors engage in overtime work or work on days off. In principle, an employer is also not allowed to have minors work under various variable working hours systems.

■ **Night work of minors (Article 61 of the Labor Standards Act)**

In principle, an employer is not allowed to have minors engage in work during late night hours (from 10 p.m. to 5 a.m.).

■ **Restrictions on dangerous and harmful jobs (Article 62 of the Labor Standards Act) (Articles 7 and 8 of the Rules on Labor Standards for Minors)**

An employer is prohibited from having minors engage in dangerous or harmful jobs because minors are still physically and mentally immature.

(e.g.) ・Handling of heavy materials (weighing 30kg or more)
・Work in places in which harmful gas is generated
・Work in places at least five meters above the ground (places from which minors could fall)

■ **Labor contracts with minors (Article 58 of the Labor Standards Act)**

A labor contract with a minor must be concluded with the minor himself/herself. Neither a person who has parental authority for the minor nor the agent of the minor is allowed to conclude the labor contract on his/her behalf.

■ **Wage claim (Article 59 of the Labor Standards Act)**

A minor can claim his/her wages independently. Neither a person who has parental authority for the minor nor a legal guardian of the minor is allowed to receive his/her wages on his/ her behalf.

17. Termination of Labor Relationship, etc.

[1] Termination of Labor Relationship

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.

< 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 of the Labor Standards Act)
[v] Dismissal by reason of giving a report to a 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 and 74-7 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 (Articles 17 and 18 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 (Articles 30-5 and 30-6 of the Labor Policies Comprehensive Promotion Act)
[xii] Dismissal by reason of a worker's consultation regarding harassment in the workplace (Articles 11 and 11-3 of the Equal Employment Opportunity Act, Article 30-2 of the Labor Policies Comprehensive Promotion Act, and Article 25 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 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 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 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 (Articles 52-4 and 52-5 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)

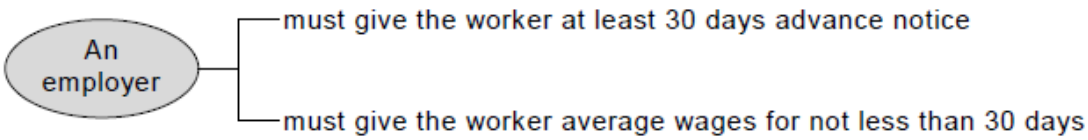
[xxii] Dismissal by reason of whistleblowing (Article 3 of the Whistleblower Protection Act)

[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)

[2] Advance Notice of Dismissal

(Article 20 of the Labor Standards Act)

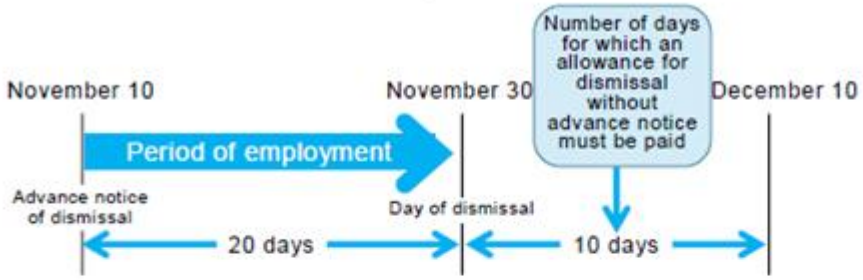
- In order to dismiss a worker:



- An employer who cannot give a worker to be dismissed at least 30 days' advance notice must give such worker the average wages for at least the number of days short of 30 days (allowance for dismissal without advance notice).

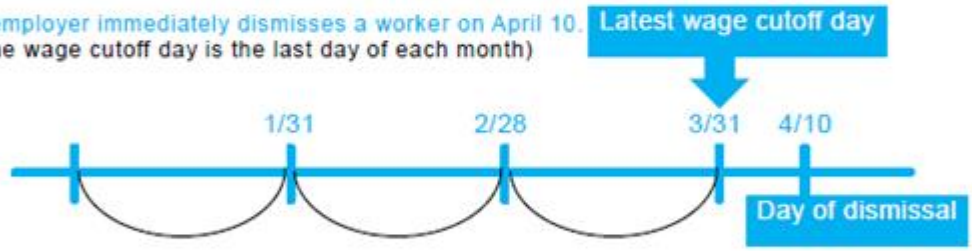
- If an employer gives advance notice of dismissal and pays an allowance for dismissal without advance notice to a worker, the employer must pay the allowance to the worker no later than the day of dismissal. If an employer dismisses a worker immediately without giving advance notice, the employer must pay the worker an allowance for dismissal without advance notice upon dismissal.

Example On November 10, an employer gives a worker advance notice that the worker will be dismissed as of November 30.



Example Calculation of allowance for dismissal without advance notice

An employer immediately dismisses a worker on April 10.
(If the wage cutoff day is the last day of each month)



	January	February	March	
Monthly wage	180,000 yen	190,000 yen	210,000 yen	Total of 580,000 yen
Calendar days	31 days	28 days	31 days	Total of 90 days
Working days	18 days	19 days	21 days	Total of 58 days

580,000 yen / 90 days = 6,444.444... yen
The average wage is 6,444.44 yen.
(The numbers after the 3rd decimal point are discarded.)
Allowance for dismissal without advance notice must be the average wage for 30 days.
6,444.44 yen × 30 days = 193,333.2 yen
193,333 yen (Fractions of less than one yen are rounded off.)

[3] Exceptions to Advance Notice of Dismissal

○ Advance notice of dismissal is not required in the following cases:

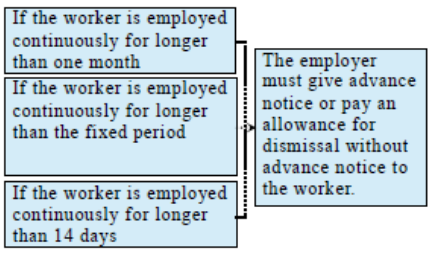
I. Dismissal of workers not requiring advance notice of dismissal (Article 21 of the Labor Standards Act)

[i] Workers employed on a daily basis……..

[ii] Workers employed for a fixed period not longer than two months……

[iii] Workers employed in seasonal work for a fixed period not longer than four months……

[iv] Workers in a probationary period……



II. Dismissal upon an employer's application (Article 20 of the Labor Standards Act)

[i] If it becomes impossible to continue business due to a natural disaster or other unavoidable circumstances and the Director-General of the competent Labour Standards Inspection Office approves

[ii] If the worker is dismissed for causes attributable to the worker and the Director-General of the competent Labour Standards Inspection Office approves

◇ Application for approval for not giving advance notice of dismissal

If an employer applies for approval for not giving advance notice of dismissal to a worker in the case of dismissal for causes attributable to the worker, a Labour Standards Inspection Office determines whether to give approval according to the criteria below, while taking into consideration the years of service, job performance, status and responsibilities of the worker and questioning both the employer and the worker about the circumstances.

[i] A case where a worker committed any criminal offense, such as theft, embezzlement or injurious assault, within the company

[ii] A case where a worker negatively influences other workers by gambling or disturbing the morality or discipline of the workplace

[iii] A case where a worker misrepresented his/her background information, which consists of conditions for his/her hiring

[iv] A case where a worker changed his/her job

[v] A case where a worker was absent from work without permission and just cause for a period of two weeks or longer and failed to comply with a demand for work

[vi] A case where a worker failed to improve despite repeated warnings about his/her frequent late arrivals at work and/or absences from work

○ Labor contracts of part-time workers and other fixed-term workers may be considered virtually as open-ended labor contracts even if they have been repeatedly renewed. If an employer is not going to renew the employment of these workers, the employer must give them advance notice of dismissal (see 2.[3] Term of Labor Contracts).

[4] Certificate upon Separation from Employment, etc.

If a worker requests a certificate stating employment-related information as shown below upon separation from employment, an employer is required to deliver such a certificate to the worker without delay (Article 22 of the Labor Standards Act).

[i] the period of employment, [ii] the kind of occupation, [iii] the position in the business, [iv] wages, and [v] the reason for separation from employment (in case of dismissal, including the reason for dismissal)

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.

[5] Return of Money and Goods

In the event of a worker's death or separation from employment, 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).

18. Rules of Employment

(Articles 89 and 90 of the Labor Standards Act)

○ An employer who continuously employs 10 or more workers is required to draw up rules of employment. The employer must ask the opinions of a representative of the workers when drawing up the rules of employment and submit the completed rules of employment with a statement of such opinions to the Director-General of the competent Labour Standards Inspection Office. This also applies when the rules of employment are changed. The aforementioned "10 or more workers" include part-time workers.

* Rules of employment help maintain workplace order, stabilize working conditions and business operations, and prevent unnecessary employment-related difficulties. Employers should draw up rules of employment even if they employ fewer than 10 workers.

－ Matters Required in Rules of Employment －

Information required

[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)

Matters required if certain provisions are made

[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

○ Rules of employment must not violate applicable laws and regulations, such as the Labor Standards Act, or collective agreements. Portions of a labor contract that do not satisfy the standards of rules of employment are invalid.

If separate rules of employment are formulated for some workers to provide them with working conditions different from those for other workers, the original rules of employment should include a provision that delegates the authority to establish such different working conditions for the separate rules of employment.

■ Hearing of opinions from a representative of workers

The representative of the workers from whom opinions must be heard is a labor union organized by a majority of all the workers of the workplace or, if such a labor union is not organized, a person who represents a majority of all the workers of the workplace, including part-time workers. This person who represents a majority of all the workers must be elected in accordance with the figure below.

The employer is required to give due consideration so that a person representing a majority of the workers can smoothly perform duties concerning an agreement, etc. under law.

Person representing a majority of all the workers

The person must meet the following requirements

(1) The person is not a manager or supervisor as defined in item 2 of Article 41 of the Labor Standards Act.

(2) The person was elected by such method as vote or a show of hands after making it clear that a person representing a majority of the workers who is responsible for concluding a labor-management agreement or the like is to be elected, and was not elected based on the intention of the employer.

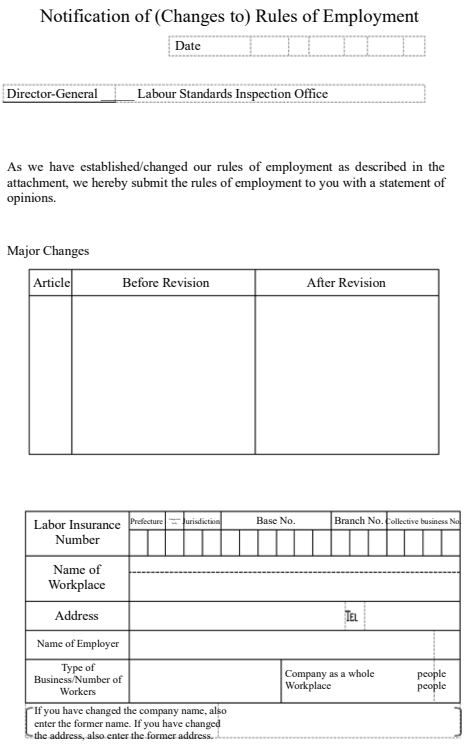
The employer must not treat the person disadvantageously on the following grounds.

Grounds

(1) The person is a representative of a majority of all the workers.

(2) The person attempted to become a representative of a majority of all the workers.

(3) The person acted justifiable as a representative of a majority of all the workers.



Notification of (Changes to) Rules of Employment

Date

Director-General ___ Labour Standards Inspection Office

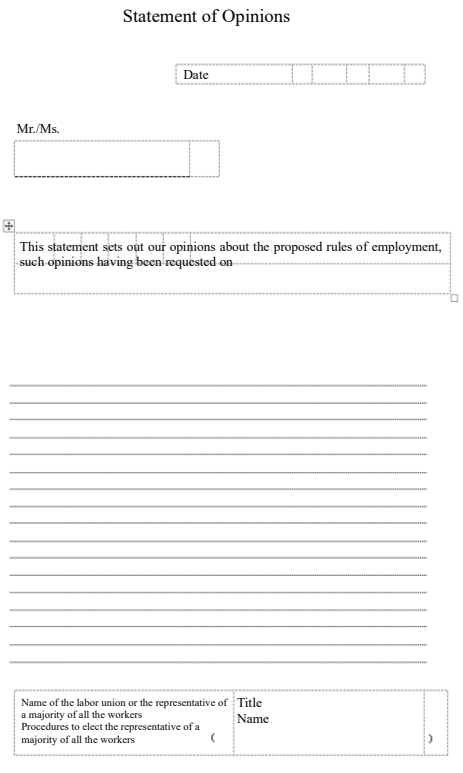
As we have established/changed our rules of employment as described in the attachment, we hereby submit the rules of employment to you with a statement of opinions.

Major Changes

Article	Before Revision	After Revision

Labor Insurance Number	Prefecture	~~~	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 Workplace		people 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

■ Restrictions on sanction provisions (Article 91 of the Labor Standards Act)

If an employer imposes sanctions, such as admonition, wage reduction, suspension from work or disciplinary dismissal, on workers for their violation of service discipline, the employer must include specific grounds and the types and degrees of sanctions therefor in the rules of employment.

The amount of a wage reduction for a single sanction case must not exceed 50 percent of the daily average wage of such worker. If a worker is subject to sanctions for multiple cases for a single wage payment period, the total amount of wage reduction must not exceed 10 percent of the total wages for the wage payment period.

■ Dissemination of rules of employment and agreement under Article 36, etc. (Article 106 of the Labor Standards Act)

An employer is required to disseminate the rules of employment, an agreement under Article 36 and other labor-management agreements.

Means of dissemination of rules of employment and other labor-management agreements

An employer is required to disseminate the rules of employment and other labor-management agreements by any of the following means:

[i] Posting or keeping copies of the rules of employment and other labor-management agreements in an easily visible location at each workplace at all times;

[ii] Delivering written copies of the rules of employment and other labor-management agreements to the workers; and/or

[iii] Recording the rules of employment and other labor-management agreements on magnetic tapes, magnetic disks or other equivalent forms of media so that the workers have access to them at all times (e.g. in-house LAN).

19. Medical Examination and Safety and Health Management System

■ Medical examination at the time of employment

This medical examination is not intended to determine whether or not to hire workers. A worker who has undergone a medical examination that covers all the items listed below within the last three months may submit the relevant medical certificate instead of undergoing the medical examination at the time of employment.

Medical Examination Items	Omission Criteria
○ Questions on medical and work histories ○ Examination of subjective and objective symptoms ○ Measurement of height, weight, waist circumference, eyesight and hearing ○ Chest X-ray examination ○ Blood-pressure measurement ○ Anemia test (hemoglobin content and erythrocyte count) ○ Liver function test (GOT, GTP and γ-GTP) ○ Blood lipid level test (LDL cholesterol, HDL cholesterol and triglyceride level in blood serum) ○ Blood sugar test ○ Urine test (test of sugar and protein in urine)	No examination items can be omitted for medical examination at the time of employment.

■ Periodical medical examination

An employer is required to provide regularly employed workers with a periodical medical examination by physicians for the items listed in the table below once during every one year period, individually notify workers of the medical examination results, and keep them in individual medical examination records for at least five years.

Medical Examination Items	Omission Criteria (determined by physicians)
○ Questions on medical and work histories ○ Examination of subjective and objective symptoms	—
○ Measurement of height, weight, waist circumference, eyesight and hearing (*)	・Height: Workers aged 20 or older ・Waist circumference: [i] Workers under 40 years of age (excluding workers aged 35) [ii] Pregnant female workers [iii] Workers with a BMI of less than 20 [iv] Workers who measure their waist circumference by themselves and report the measurement (for workers with a BMI of less than 22)
○ Chest X-ray examination and sputum examination	・Chest X-ray examination Workers under 40 years of age who are not any of the persons listed below(**) ・Sputum examination Workers who are diagnosed by a chest X-ray examination as being unlikely to develop tuberculosis Workers who are exempt from a chest X-ray examination
○ Blood-pressure measurement	—

○ Anemia test (hemoglobin content and erythrocyte count) ○ Liver function test (GOT, GTP and γ-GTP) ○ Blood lipid level test (LDL cholesterol, HDL cholesterol and triglyceride level in blood serum) ○ Blood sugar test	Workers under 40 years of age (excluding workers aged 35)
○ Urine test (test of sugar and protein in urine)	—
○ Electrocardiography	Workers under 40 years of age (excluding workers aged 35)

(*): A hearing test is a test of the hearing ability of workers with audiometers using sound levels of 1,000Hz and 4,000Hz. Workers under 45 years of age (excluding workers aged 35 and 40) do not need to take this hearing test if they take another test of hearing ability considered appropriate by a physician (excluding hearing ability for a sound level of 1,000Hz or 4,000Hz).

(**): [i] Workers aged 20, 25, 30 or 35
[ii] Workers at schools (including specialized training colleges and schools for specialized education and excluding kindergartens), hospitals, clinics, midwifery homes, long-term care health facilities, care facilities for the elderly or other specified social welfare facilities
[iii] Workers who are required by the Pneumoconiosis Act to undergo a medical examination for pneumoconiosis once every three years

■ Stress check

From December 2015, employers who regularly employ 50 or more workers are required to conduct a stress check for all workers (*) once every year.

(*) 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

■ General safety and health manager

An employer is required to appoint a general safety and health manager for each workplace if the workplace meets the criteria below:

		Number of workers
(1)	Construction, transport, etc.	100 or more
(2)	Manufacturing, electricity, etc.	300 or more
(3)	Other types of business	1,000 or more

* For more details on business types, see the classification in the "Safety and Health Management Organization" below.

■ Safety officer

An employer is required to appoint a safety officer for each workplace of business type (1) or (2) above if 50 or more workers are continuously employed at such workplace.

■ Health officer

Irrespective of business type, an employer is required to appoint a health officer for each workplace if 50 or more workers are continuously employed at such workplace.

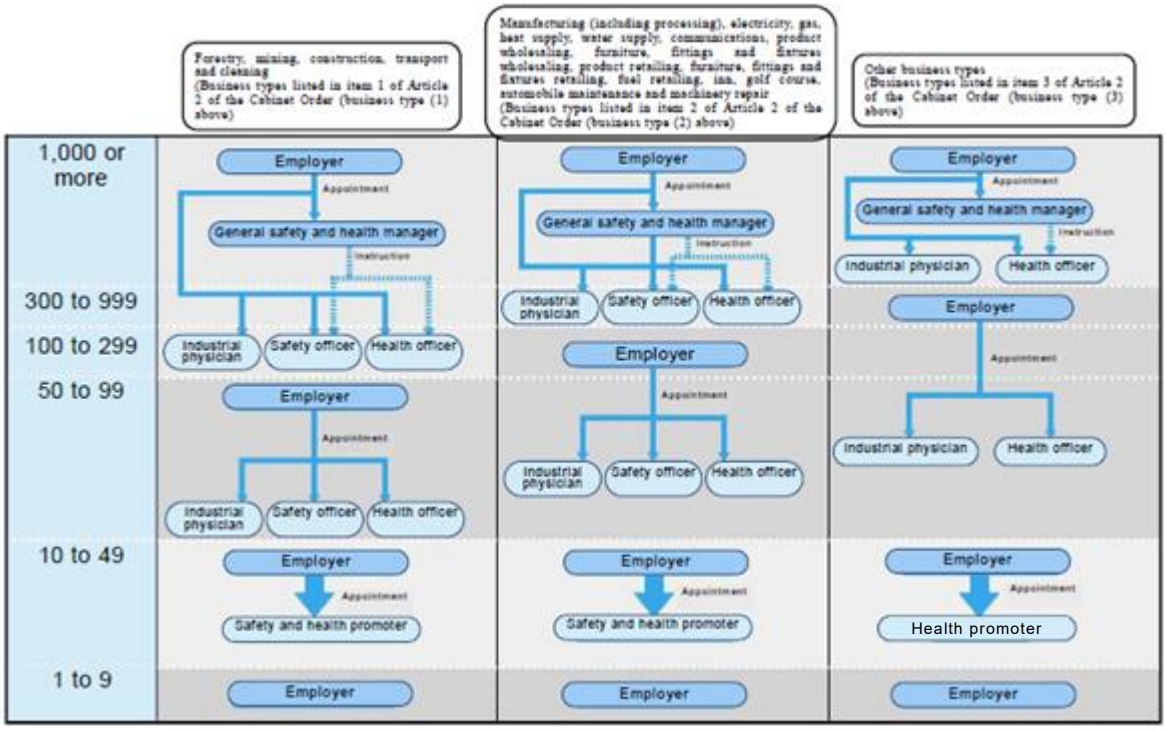
■ Safety and health promoter and health promoter

For each workplace at which 10 to 49 workers are continuously employed, an employer is required to appoint a safety and health promoter if the business type requires the appointment of a safety officer (business types (1) and (2) above), or a health promoter if the business type is any other.

■ Industrial physician

Irrespective of the business type, an employer is required to appoint an industrial physician for each workplace at which 50 or more workers are continuously employed and have the industrial physician perform necessary duties such as making the rounds at such workplace.

■ Safety and health management organization



Number of workers

20. Labor Insurance (Industrial Accident Compensation Insurance and Employment Insurance)

■ Labor insurance

Industrial accident compensation insurance and employment insurance are collectively called 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 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.

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 a financial institution (a bank or postal office) with a declaration of the estimated insurance premium within 50 days from the day following the day on which the insurance relationship is established.

■ Industrial accident compensation insurance

○ Any worker, whether working full-time or part-time, is covered by industrial accident compensation insurance. 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 part of the costs necessary for the insurance benefits.

○ When an industrial accident occurs, the employer should promptly assist the victims. If a worker dies or needs to be absent from work for four days or longer because of an industrial accident, the employer must immediately submit a report of worker casualty to the Director-General of the competent Labour Standards Inspection Office. (Accidents that cause workers' absence from work for less than four days must be compiled into a report and be submitted every quarter.) In the event of a fatal accident or other serious disaster wherein three or more workers become victims, the employer must immediately notify the competent Labour Standards Inspection Office of such matter.

■ Employment insurance

○ If a worker becomes unemployed or any circumstances arise to make it difficult to continue his/her employment or when a worker voluntarily receives vocational education or training

or takes leave for taking care of children, employment insurance provides the worker with necessary benefits to stabilize his/her livelihood and employment and also make it easier for the worker to find a job. In addition, employment insurance aims to prevent unemployment, redress the employment situation, increase employment opportunities, and develop and improve the abilities of workers or otherwise promote welfare of workers in order to contribute to the employment security of workers.

○ The Employment Insurance Act requires an employer to report a public employment security office (Hello Work) that a worker who meets the requirements has come to be covered by employment insurance, irrespective of the intention of the business operator and the worker. If an employer fails to properly report such fact, workers may suffer disadvantages in benefits when they become unemployed. For the procedures for giving workers employment insurance, an employer should contact the competent public employment security office.

○ All general workers are covered by employment insurance. On the other hand, part -time workers are covered by employment insurance if they meet both of the following requirements:

[i] They are expected to be continuously employed for at least 31 days; and

[ii] They work at least 20 hours a week.

－Health Insurance and Employees' Pension Insurance－

◇ The health insurance scheme aims to provide workers and their dependents with insurance benefits for childbirth as well as diseases, injuries and death that do not occur in the course of business in order to help stabilize the lives of the people and improve their welfare.

◇ The employees' pension insurance scheme aims to provide insurance benefits for the aging, disability or death of workers in order to help stabilize the lives of workers and their surviving families and improve their welfare.

◇ The places of business listed below are obligated by law to join the health insurance scheme and the employees' pension insurance scheme.

・All places of business of corporations

・Places of personal business covered by the scheme at which at least five workers are continuously employed, such as companies, plants, stores and offices

◇ To join these insurance schemes, an employer needs to submit necessary documents, such as an application for enrollment in the scheme, to the competent branch office of the Japan Pension Service.

[October 2022]

List of Consulting Organizations

○ This is a list of major consulting organizations for labor-related issues.

○ The General Labor Consultation Corner, which is established in each Prefectural Labour Bureau and Labour Standards Inspection Office, accepts consultations from workers and employers in all fields of labor issues, such as dismissal, non-renewal of employment and personnel relocation. The Corner also accepts applications for advice and guidance by the directors of Prefectural Labour Bureaus or for conciliation by the competent Disputes Adjustment Commission.

Issue	Consulting Organization
■ Working conditions, including dismissal and non-payment of wages	○ General Labour Consultation Corner http://www.mhlw.go.jp/general/seido/chihou/kaiketu/soudan.html ○ Labour Standards Inspection Office http://www.mhlw.go.jp/kouseiroudoushou/shozaiannai/roudoukyoku/
■ Working hours	
■ Wages and retirement allowances	
■ Management of workplace safety and health	
■ Industrial accident compensation insurance	
■ Job offering and job seeking	○ Public Employment Security Office (Hello Work) http://www.mhlw.go.jp/kouseiroudoushou/shozaiannai/roudoukyoku/
■ Employment insurance	
■ Unemployment and other benefits for job seekers	
■ Benefits for child care and family care leave	
■ Subsidies for promotion of employment	
■ Benefits for continued employment of senior citizens	
■ Employment management for elderly, disabled and foreign workers	
■ Equal treatment of men and women in the workplace	○ Employment Environment and Equal Employment Office, Prefectural Labour Bureau https://www.mhlw.go.jp/kouseiroudoushou/shozaiannai/roudoukyoku/ ○ General Labor Consultation Corner https://www.mhlw.go.jp/general/seido/chihou/kaiketu/soudan.html
■ Sexual harassment in the workplace	
■ Disadvantageous treatment and harassment in relation to pregnancy, childbirth, or acquisition of child care or family care leave, etc. in the workplace	
■ Maternal health management	
■ Child care and family care leave	
■ Part-Time Work Act	
■ Disputes between labor unions and employers	○ Labor Relations Commission
■ Health insurance and employee s' pension insurance	Japan Pension Service (branch office)
■ Labor tribunal decision	District Court

(Reference) List of Minimum Wages by Prefecture

Regional minimum wages are as shown below. Additionally, special minimum wages are set for some business types. See the dedicated website for detail.

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

< Access the dedicated website for minimum wages from here.>

最低賃金制度 検索

(October 2022)