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# Japan HR Guide

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## 1. Hiring

### Employment Contract

When hiring a new employee, an employer needs to enter into an employment contract with the employee, specifying working conditions clearly. Mandatory items to be included are workplace (both the workplace immediately after hiring and the scope of changes of workplace in future), work engaged in (both the work engagement immediately after hiring and the scope of changes of work engagement), scheduled working hours, start/finish time of work, break time, holidays and leave, wages, matters concerning termination, etc. In the case of a fixed-term employee, the contract needs additionally to state whether the contract is renewable or not after expiration of the term, the number of contract renewal limits, if there are limits, and conversion to an indefinite-term contract. Any part of the employment contract contravening working conditions stipulated in the work rules (described later) shall be void. The invalid part or the matters not specified in the contract are governed by the working conditions stipulated in the work rules.

**Probationary Period:** Many Japanese companies set a probationary period when hiring an employee to see and decide whether or not to fully employ the employee. The period which can be extended for short periods is generally 3 to 6 months. The probationary period is included in the length of service years.

### Work Rules

It is important for every business, regardless of its size or field of the business, to create a pleasant workplace where employees can work in a safe environment. Setting the work rules in advance that clearly stipulate terms and conditions of employment and the standards for treatment, including working hours, wages, retirement and dismissal, etc. is essential to avoid disputes between an employer and employees. In addition to those mandatory items, various company policies can be included such as rules pertaining to personnel and duties, confidentiality, protection of confidential information, protection of intellectual property and restrictions against post termination competition. Employers can establish their own work rules, but they should not violate any relevant laws and regulations. A company with 10 employees or more is required to draw up the work rules and submit the document to the Labor Standards Inspection Office with an opinion letter signed by the employee who represents a majority of all employees.



## 2. Working Hours, Holiday and Leave

### Statutory Working Hours

The Japanese Labor Standards Act (LSA) prohibits an employer to have an employee work more than 40 hours per week and more than 8 hours per day for each day of the week, excluding break time. This break time must be no less than 45 minutes for over 6 hours' work, and no less than 1 hour for over 8 hours' work. The employer shall also grant 1 day off per week or 4 days off in any 4-week period. This day off is called a statutory holiday (*Hotei kyujitsu*). It is not necessary for such statutory holidays to fall on Saturday or Sunday.

Regardless of the preceding paragraph, the employer is able to have employees work overtime or on holidays when the employer has entered into a labor-management agreement regarding overtime and holiday work with the employee who represents a majority of employees and has filed the agreement with the Labor Standards Inspection Office. This agreement is prepared based on Article 36 of LSA, so is generally called "The 36 Agreement". The legal limit of overtime is 45 hours a month and 360 hours a year excluding holiday work. In special occasions, the overtime hours can be extended up to 720 hours a year. Premium rates for overtime and holiday work range from 125% to 160% depending on the type of overtime.

**Overtime exemption:** The regulations regarding overtime work, break time and holiday work are not applied to employees in managerial or supervisory positions. Those employees are accordingly not eligible for overtime pay. The sole exception is the wage for night work between 22:00 and 5:00. 25% of normal wages should be paid for work in the night period.

### Annual Paid Vacation

LSA requires an employer to grant an annual leave of 10 working days to employees who have worked continuously for 6 months. After 1.5 years of employment, the increased days are given as per the following schedule:

Years of employment	0.5	1.5	2.5	3.5	4.5	5.5	6.5+
Entitled days	10	11	12	14	16	18	20

Employees must work 80% of the working days of the preceding year to be entitled. Unused days can only be carried forward to the following year. After two years, the unused days expire. It is prohibited to buy the unused paid vacation. However, the buy-out is allowed at the time of termination of employment. Whether to buy or not is not stipulated by law. It is determined by the company policy.

### Maternity Leave

Female employees are eligible for maternity leave for 6 weeks before and 8 weeks after childbirth. The pre-birth leave is given upon request by the employee, but the post-birth leave for 8 weeks must be compulsorily given regardless of the employee's intention. (The restricted period can be shortened to 6 weeks if a doctor approves.)

During the maternity leave, cash benefits are provided by health insurance, and both employee and employer are exempt from social insurance contribution.



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## **Childcare Leave**

An employee can request leave of absence to take care of a child until the child reaches one year of age. The period of leave can be extended up to the child's 2-year birthday if certain conditions are met. When requested, an employer cannot refuse to provide leave for the requested period. Whether or not salary is paid during the leave depends on the company's decision. During the unpaid leave, a cash benefit is provided by the Employment Insurance. The leave is granted to a male employee as well. During the leave, both employee and employer are exempt from social insurance contribution.

### **Childcare Leave at Birth (Paternity Leave)**

An employee who is not on the post-delivery maternity leave can apply for a childcare leave of up to 4 weeks within 8 weeks after childbirth. This leave is the so-called "Paternity Leave". A cash benefit is provided by the Employment Insurance when the leave is unpaid. Both employee and employer are exempt from social insurance contribution during the leave if certain conditions are met.

## **Family Care Leave**

When a family member needs constant care for two weeks or more because of injury, sickness, or physical/mental disability, an employee is entitled to request family care leave if certain conditions are met. The period of leave is up to 93 days in total per family member.

## **3. Salary and Tax**

### **Withholding System**

Payroll income tax is withheld monthly from salaries according to tax rate tables. An employer is obliged to pay the withholding tax to the tax office by the 10<sup>th</sup> of the following month. Even if the tax is withheld on a monthly basis, annual tax due should be computed based on annual taxable income. The balance between the withholding tax paid throughout the year and final tax amount due is adjusted in the December salary every year. This procedure, called year-end tax adjustment, is obligatory for employers. However, if the employee's salary receipts exceed ¥20 million, the employee must file an individual tax return. The employer should report annual withholding tax information to the tax office by January 31<sup>st</sup> each year.

### **Inhabitant Tax**

Payroll deduction items other than withholding tax are individual inhabitant tax and social insurance premiums. Individual inhabitant tax is imposed on a resident who has a domicile in Japan as of January 1. It is levied on the income earned in the previous year. The municipal office calculates the individual inhabitant tax and issues a statement to the company no later than May 31 of that year. The company is required to withhold the individual inhabitant tax over 12 months from June to May of the following year. The payment of the withholding inhabitant tax must be made by the 10<sup>th</sup> of the following month.



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## 4. Social Insurance

### Outline of Four Types of Employee Social Insurance

The social insurance system in Japan for employees is composed of Social Insurance covering Health Insurance and Welfare Pension Insurance, and Labor Insurance covering Employment Insurance and Worker's Accident Compensation Insurance. The four schemes may be collectively referred to as "social insurance". Non-Japanese employees are also covered by each scheme.

**Officers and Part-time employees:** Officers are also covered by the Health Insurance and Welfare Pension scheme, but not Employment Insurance and Worker's Accident Compensation Insurance. Part-time employees with reduced working hours are also insured by the four schemes if certain conditions are met.

**Health Insurance** entitles employees and their dependent family members to receive medical treatment at 30% of the actual costs. A family member who lives outside Japan is not eligible. There are also other cash benefits for events such as childbirth, death, unpaid leave due to non-work-related injury or illness, etc. Employees aged 40-64 years who are covered by health insurance are required to contribute to Nursing Care Insurance which is one of the government welfare plans to aid elderly people.

**Welfare Pension Insurance** provides elderly-age pension benefits when an employee retires and reaches 65 years of age. It also provides a pension/lump sum benefit when an employee becomes disabled, or survivor pension/lump sum benefit to a certain scope of survivors when an employee dies. An employer qualified for the scheme is obliged to contribute to the Children's Welfare Fund, which is a children-aid plan operated by the government.

**Employment Insurance** provides unemployment benefits and various kinds of support for those individuals who become unemployed and wish to find a job. It also provides the child/family care benefits for existing employees who are on the child or family care leave without pay.

**Workers' Accident Compensation Insurance** entitles employees to be compensated for illness, injury or death incurred while working or commuting to/from a working place. Benefits are provided in the form of a lump sum payment or pension payment depending on the level of seriousness of the injury or illness.

### Premium Rates

Premiums are shared by employer and employees nearly equally. The burden on the employer's portion for both salary and bonus is about 16%.

### Lump-sum Withdrawal Payment

Persons who do not have Japanese nationality can claim a Lump-sum Withdrawal Payment within two years from the last time they lost their qualification as an insured person of the Welfare Pension (the day when they no longer have an address in Japan). This applies to persons who have never had the right to receive a pension including disability allowance and whose contribution-paid period is six months or more.



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This payment is taxable.

## Social Security Agreements

As of April 2024, Japan has concluded social security agreements with twenty-three countries. The agreement includes the elimination of dual coverage in home and host countries and the totalization of pension coverage periods. Please note that among the twenty-three, four agreements with the UK, Korea, Italy and China include the elimination of dual coverage only which avoids “dual burden of contribution payments” by arranging your compulsory coverage between the two countries.

## 5. Retirement and Dismissal

### Retirement

**Mandatory retirement:** There is no statutory retirement age in Japan. The law only stipulates the retirement age shall not be below 60 when set by a company. The age of 60 is commonly the contractual mandatory retirement age.

Responding to changes of labor circumstances in the aging society, the Act of Stabilization of Employment of Elderly Persons compulsorily obliges an employer to implement a measure to secure an employment opportunity for elderly persons up to the age of 65 after retirement. The law amended in 2021 stipulates the employer’s obligation of making efforts to expand the scope of application up to the age of 70.

### Dismissal

**Ordinary dismissal:** In principle, an employer has the right to dismiss an employee due to his/her physical/mental incapability, lack of skills, low performance, misconduct, or as a business necessity. However, it is not easy to do so. Unless the dismissal has an objective and rational ground for dismissal that would be socially acceptable, it is deemed as an abuse of rights and becomes invalid. Generally, the employer stipulates the grounds for dismissal in the work rules. LSA requires an employer to provide a 30-day notice or a 30-day payment in lieu of notice to dismiss an employee.

**Encouraged voluntary resignation:** Dismissal is a very hard way of termination of employment of an employee. To avoid such a situation, an employer often encourages a voluntary resignation before the situation goes to dismissal. In some cases, a special separation package is offered. When the employee accepts resignation, it is important to have a separation letter mutually signed by him/her to prevent any future dispute.

**Disciplinary dismissal:** Disciplinary dismissal is the most serious disciplinary action. The grounds may include neglect of duties, violation of workplace disciplines, breach of company rules and regulations, etc. and are clearly stipulated by clauses in the work rules. The rationale and necessity must be considered in individual cases as with ordinary dismissals. The action of disciplinary dismissal may be taken with immediate effect. However, the 30-day notice must be given as a matter of law. If the employer applies for an immediate dismissal to the labor authority and the application is accepted, the employer can dismiss the employee without notice.



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## Retirement Payments

**Retirement allowance:** Conventionally in Japan, it is common to pay a retirement allowance when an employee resigns from a company, though the payment is not a statutory requirement. The amount to be paid usually is based on the length of employment and level of salary of the employee. The rules of retirement allowance must be defined in the company's work rules. A retirement allowance is taxed as a retirement income which normally is reported separately from other income on the tax return. However, if the payer of the retirement allowance withholds tax and a declaration of the retirement income payment is filed, the filing of individual tax returns is not required for the income. In addition, there is no withholding of social insurance premiums for retirement income.

**Other severance pay:** In some cases, a company may pay an additional retirement payment on top of the scheduled retirement allowance. Such payment attributed to termination from a company is taxed as a retirement income for taxation purposes.

**Payment in lieu of notice:** The payment in lieu of notice made for dismissal is treated as retirement income for tax purposes, and the retirement tax rate is applied.