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## FUNDAMENTAL KNOWLEDGE OF LABOUR LAWS and RESTRICTIONS

An employer who hires workers, even if his /her worker is only one (including a part-time worker), shall comply with the labour laws and restrictions such as Labour Standards Law and Minimum Wages Law. This leaflet is prepared for better general understanding of the laws and restrictions.

### Labour Contract

#### 1. Labour Contract Validity [Labour Standards Law, Article 13]

A labour contract which provides for working conditions which do not meet the standards of this Law shall be invalid with respect to those sections. In such a case the sections which have become invalid shall be governed by the standards set forth in this Law.

#### 2. Labour Contract Period [Labour Standards Law, Article 14]

The maximum period allowed for a labour contract with a definite period is allowed to 3 years (5 years, if the labour contract is concluded with an employee, who has technical knowledge like a licensed tax accountant or a person who is over sixty years old).

#### 3. Clear Statement of Working Conditions [Labour Standards Law, Article 15]

In hiring an employee, the employer shall clearly state the working conditions as follows:

#### Labour conditions to be expressed: \_\_\_\_\_

Matters ( - ) to be written and handed to the employee;

Period of employment

Place of work and job to be engaged in

Starting and closing hours; presence of overtime; rest periods; rest days; leave; the change in shifts (in case workers work in two or more shifts)

Determination; calculation; payment method for wages; matters concerning the date for closing account for wages and for payment

Matters concerning retirement (including reasons for the dismissal)

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Matters concerning increase in wages

#### Matters to be clearly stated in stipulating the rules:

Matters concerning the scope of workers covered; determination of retirement

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allowances; calculation and payment of retirement allowances; and the dates for payment of retirement allowances

Matters concerning extraordinary wages and bonuses

Matters concerning food expenses, supplies for work, and other related costs to be borne by workers

Matters concerning safety and health

Matters concerning vocational training

Matters concerning casualty compensation and assistance for injury or illness incurred off duty

Matters concerning commendation and sanction

Matters concerning leave of absence

## **Dismissal and Retirement**

### **1. Invalidity of Dismissal**

Any dismissal of a worker “that is not objectively justifiable and that is not considered acceptable by the society’s standards” shall be deemed an abuse of power and therefore invalid.

### **2. Restrictions on Dismissal of Workers [Labour Standards Law, Article 19]**

In principle, an employer shall not dismiss a worker during a period of rest for medical treatment with respect to injuries or illness being suffered in the course of duty nor within 30 days thereafter. The employer shall not discharge a woman during a period of rest before and after childbirth.

### **3. Notice of Dismissal [Labour Standards Law, Article 20]**

In the event that an employer wishes to dismiss a worker, the employer shall provide at least 30 days advance notice or shall pay the average wages (dismissal allowance) for a period of not less than 30 days.

*\*In the event that an employer wishes to dismiss a worker, the employer shall provide at least 30 days advance notice or shall pay the average wages for a period of not less than 30 days (dismissal allowance).*

### **4. Certificate on Retirement/Certificate Stating the Reason for Dismissal [Labour Standards Law, Article 22]**

When a worker on the occasion of leaving employment requests a certificate stating the kind of occupation, the reason for dismissal, etc., an employer shall deliver one without delay and shall not include in the certificate any matter that the worker has not requested.

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## Wages

### 1. Payment of Wages [Labour Standards Law, Article 24]

An employer shall observe the following five principles of payment;

In cash

Payment in kind is prohibited.

Payment to the worker's saving account at bank or other financial institution designated by the worker is admitted by satisfying the fixed conditions.

In full

Deduction other than tax and other public charges or as stipulated the under the labour and management agreement must be prohibited

At least once a month

At a definite time

Wages must be paid at least once a month (bonuses and the like are exceptions) at a definite date.

Directly

Wages must be paid directly to the worker.

### 2. Minimum Wages [Minimum Wages Law, Article 5]

An employer shall pay more than the amount of the minimum wages to workers.

Minimum wage in Osaka・・・¥748 per hour (as of October 18<sup>th</sup>, 2008)

Minimum wage amount has been set for each industry.

\* For further information, please contact the Osaka Labour Bureau Wages Division (Tel: 06-6949-6502) or your jurisdictional Labour Standards Inspection Offices.

### 3. Allowance for Business Suspension [Labour Standards Law, Article 26]

In the event of a suspension of business for reasons attributable to the employer, the employer shall pay an allowance (equal to or more than 60 percent of the worker's average wage).

## Working Hours, Rest Periods, Leave

### 1. Working Hours [Labour Standards Law, Article 32]

An employer shall not have a worker work more than 40 hours per week (up to and including 44 hours of work per week are allowed in the business categories of

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commerce, cinema and theatre, health and sanitation and service and amusement, where there are less than 10 regular workers in the company or business), excluding rest period.

\* The variable working hour systems (one-month unit, one-year unit, a flex-time system) are allowed under special conditions.

## **2. Rest Periods [Labour Standards Law, Article 34]**

An employer shall provide rest periods during working hours of at least 45 minutes in the event that working hours exceed 6 hours and of at least one hour in the event that working hours exceed 8 hours.

\*An employer shall permit the free use of rest periods.

## **3. Rest Days [Labour Standards Law, Article 35]**

An employer shall provide workers with at least one rest day per week, or 4 rest days during a 4 week period.

# **Overtime Work, Work on Rest Days and Increased Wages**

## **1. Overtime Work, Work on Rest Days [Labour Standards Law, Article 36]**

In the event that an employer extends working hours or has a worker work on rest days, the employer must have already entered into a written agreement with a workers' representative at the workplace (\*1) and has filed such agreement (\*2) with the Director of the jurisdictional Labour Standards Inspection Office in advance.

\*1 The workers' representative means the trade union organized by a majority of the workers at the workplace where such a trade union exists or a person representing a majority of the workers at the workplace where no such trade union exists.

\*2 Regarding the limits of extension in working hours and other necessary matters set in the labour and management agreement, "the standards for the limits of overtime work" (a Notice) stipulates that the limit for monthly working hours is 45 hours, in consideration for the welfare of workers.

## **2. Increased Wages [Labour Standards Law, Article 37]**

In the event that an employer extends working hours, the following increased wages shall be paid.

Overtime work/midnight work (10:00p.m. – 5:00a.m.) at a rate of 25

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percent or more

Work on a statutory holiday at a rate of 35 percent or more

## Annual Leave With Pay

### Annual Leave with Pay [Labour Standards Law, Article 39]

An employer shall grant annual leave with pay as follows to workers (including part-time workers) who have served continuously for 6 months or more and have reported for work on at least 80 % of total working days.

Regular workers

Continuous Service Years	0.5	1.5	2.5	3.5	4.5	5.5	6.5 or more
Granted Days-off	10 days	11 days	12 days	14 days	16 days	18 days	20 days

Days of annual leave with pay granted for workers with fewer weekly working days  
( For workers with equal to or more than 30 fixed working hours per week, please refer to the table )

	Fixed Working Days per week	Fixed Working Days per year	Continuous Service Years						
			0.5	1.5	2.5	3.5	4.5	5.5	6.5 or more
Granted days-off	4 days	169-216 days	7 days	8 days	9 days	10 days	12 days	13 days	15 days
	3 days	121-168 days	5 days	6 days	6 days	8 days	9 days	10 days	11 days
	2 days	73-120 days	3 days	4 days	4 days	5 days	6 days	6 days	7 days
	1 day	48-72 days	1 day	2 days	2 days	2 days	3 days	3 days	3 days

## Minors and Women

### Labour Standards Law for Minors and Women [Labour Standards Law, Article 56 – 61, Article 64-2 – 68]

An employer shall not employ a minor (under 18 full years of age) for midnight work, or

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dangerous and harmful jobs. An employer, in the event that an expectant or nursing mother has requested it, shall not have her work overtime. The employer shall provide her before and after childbirth leave (in principle 6 weeks maternity leave before childbirth and 8 weeks after childbirth).

## Rules of Employment and Others

### 1. Rules of Employment [Labour Standards Law, Article 89 /90]

(1) An employer who continuously employs 10 or more workers shall draw up rules of employment attaching a document setting forth the opinion of a person representing the workers (please refer to 1- \*1 of **Overtime Work, Work on Rest Days and Increased Wages**) and shall submit those rules to a director of the jurisdictional Labour Standards Inspection Office. In the event that the employer changes the rules, the same shall apply.

#### [Compulsory Matters]

Matters pertaining to the time at which work begins and ends, rest periods, rest days, leaves and matters pertaining to the change in shifts, when workers are employed in shifts (Change in shifts).

Matters pertaining to the methods of determination, computation and payment of wages; the dates for closing accounts for wages and for payment of wages; and increases in wages.

Matters pertaining to retirement (including cases of dismissal).

#### [Compulsory Matters in the event there are stipulations concerning the following:]

Matters pertaining to retirement allowance

Matters pertaining to extraordinary wages(bonus) and /or minimum wage amounts

Matters pertaining to the cost of food, supplies for work and other such expenses

Matters pertaining to safety and health

Matters pertaining to compensation and /or assistance for injury or illness outside the course of employment

Matters pertaining to commendations and/or sanctions

Matters pertaining to other items which apply to all workers at the workplace

### (2) Validity [Labour Standards Law, Article 92]

Rules of employment shall not infringe on any laws and ordinances or any collective agreement.

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**(3) Restrictions on sanction provisions [Labour Standards Law, Article 91]**

In the event that the rules of employment provide for a decrease in wages as a sanction, the amount of decrease for a single occasion shall not exceed 50 percent of the daily average wage. And also the total amount of decrease shall not exceed 10 percent of the total wages for a single pay period.

**(4) Dissemination of laws, ordinances, and others [Labour Standards Law, Article 106]**

An employer shall make it known to workers the rules of employment, labour and management agreements etc.

**2. Preparation of the Roster of Workers and Wage Ledgers, Preservation of Records [Labour Standards Law, Article 107 – 109]**

An employer shall prepare a roster of workers and wage ledger for each workplace. The employer shall keep the rosters of workers, wage ledgers and important documents concerning matters of labour relations for a period of 3 years.

**Other Laws and Ordinances Concerned**

**1. Industrial Safety and Health (Industrial Safety and Health Law)**

**(1) Safety and health [Industrial Safety and Health Law, Article 59]**

An employer shall, upon employing new workers, or upon changing the content of work assigned to workers, provide necessary training for the worker with regard to safety and health at work. Where an employer intends to assign workers to dangerous or harmful jobs prescribed by law, the employer shall provide special training.

**(2) Restrictions on employment [Industrial Safety and Health Law, Article 61]**

An employer shall not assign workers to jobs that involve handling dangerous and harmful substances designated as dangerous or detrimental by law, with the exception of workers who have appropriate qualifications.

**(3) Medical examination [Industrial Safety and Health Law, Article 66]**

An employer shall, upon employing new workers or once a year (once a half year for workers engaged in specified jobs) arrange for the workers to undergo a medical examination conducted by a physician regarding the items prescribed by law.

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## **2. Labour Insurance (the Workmen's Accident Insurance Law, the Employment Insurance)**

An employer who hires workers, even if his /her worker is only one (including a part-time worker), shall participate in the Employment Insurance System (what we called the Workmen's Accident Insurance Law and the Employment Insurance) and pay the premiums of the insurances.

The Workmen's Accident Compensation Insurance---Compensation for accidents while working and commuting

Note: The compensation for accidents while working and commuting shall be paid by the Workmen's Accident Compensation Insurance not by the Health Insurance.

The Employment Insurance---Benefits for unemployment, training/education, and continuation of employment and Support for employers

\*For further information on the Workmen's Accident Compensation Insurance, please contact your jurisdictional Labour Inspection Offices. And on the Employment Insurance, please contact the Public Employment Security Offices (Helloworks or PESOs).

## **3. Worker Dispatching (Worker Dispatching Law)**

### **(1) Labour management of dispatched workers**

An employer who exchanges a contract with the dispatched workers is principally responsible for the labour contract, wages, working hours, leaves and the other related matters regarding dispatching workers. On the other hand, an employer of receiving dispatched workers is responsible for the management of working hours; granting leaves; labour accident related programs and the like from the viewpoint of protecting dispatched workers. Some services provided by a worker dispatching agency have limitations on the dispatching period.

### **(2) Difference between worker dispatching and subcontracting**

An employer has the different responsibilities for the dispatched or contracted employee regarding safety and hygiene, the management of working hours and the like.

The employer shall perform the proper labour management, clarifying whether the business is performed by the dispatched or the contracted, according to actual conditions of business performance (the direction and supervision given to the worker)

According to actual conditions (the direction and supervision given to the worker), the employer shall make clear whether the worker is a dispatched employee or contracted employee. The employer shall perform properly the labour management.

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\* For further information, please contact the Osaka labour Bureau, Public & Private Employment Service Department, Private Employment Service Division, **Tel: 06-4790-6303.**

#### **4. Employment of the Disabled (Law for Employment Promotion of Persons with Disabilities), Employment of Older Persons (Law Concerning Stable Employment of Older Persons)**

(1) In order to secure the stable employment of persons with disabilities, the “Law for Employment Promotion of Persons with Disabilities” stipulates an employer shall employ the legally required number or more of physically or intellectually disabled people. The number is calculated based on the stipulated employment rate (the so-called legally required number of employees) for persons with disabilities.

(2) As of April 1<sup>st</sup> 2006, the “Law Concerning Stable Employment of Older Persons” requires an employer to take measures to secure employment of older persons, including the higher mandatory retirement age, continuing employment until the age of 65 and the like.

\* For further information, please contact the Osaka Labour Bureau Employment Security Department Employment Measures Division **Tel: 06-4790-6311.**

#### **5. Securing the Equal Employment Opportunities for Men and Women and their Fair Treatment (Equal Employment Opportunity Law)**

The law prohibits an employer from discriminating women on recruitment, hiring, post, promotion, dismissal and the like. It also requires the employer to take measures to prevent women from the sexual harassment and to secure the health of women with child-birth, child-care and nursing of family members.

\* For further information, please contact the Osaka Labour Bureau Equal Employment Department **Tel: 06-6941-8940.**

#### **6. System to Settle Individual Labour Dispute (Law on Promoting the Resolution of Individual Labour Disputes)**

The guidance division provides the consultations concerning general labour problems incurred between the individual worker and employer. “Advice and Guidance” as well as “Mediation” systems are also provided for amicable solution for those problems.

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- For further information, please contact the Osaka Labour Bureau General Coordination Department Policy Planning Office **Tel: 06-6949-6050**.

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Please take a look at Osaka Labour Bureau homepage for Fundamental Knowledge of Labour Standards Law (Click [労働条件について](#) Concerning Labour Conditions [労働基準法のあらまし](#) the Guidelines for Labour Standards Law). <http://www.osaka-rodo.go.jp>

For further information, please contact the Osaka Labour Bureau Labour Standards Department (**Tel: 06-6949-6490**) or your jurisdictional Labour Standards Inspection Offices.

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