

Labor Contract Act

(Act No. 128 of December 5, 2007)



The Japan Institute for Labour Policy and Training

PROVISIONAL TRANSLATION

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CHAPTER I

GENERAL PROVISIONS

(Purpose)

Article 1. The purpose of this Act is to contribute to achieving stability in individual labor relationships, while ensuring the protection of workers, through facilitating reasonable determination of or changes to working conditions, by providing for the principle of agreement, under which a labor contract shall be established or changed by agreement through voluntary negotiation between a worker and an employer, and other basic matters concerning labor contracts.

(Definitions)

Article 2.

(1) The term “worker” as used in this Act means a person who works by being employed by an employer and to whom wages are paid.

(2) The term “employer” as used in this Act means a person who pays wages to the workers he/she employs.

(Principles of a Labor Contract)

Article 3.

(1) A labor contract shall be concluded or changed between a worker and an employer by agreement on an equal basis.

(2) A labor contract shall 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.

(3) A labor contract shall be concluded or changed between a worker and an employer while giving consideration to the harmony between

work and private life.

(4) A worker and an employer shall comply with the labor contract and shall exercise their rights and perform their obligations in good faith.

(5) Neither worker nor employer shall, when exercising his/her right under the labor contract, abuse such right.

(Promotion of Understanding of the Contents of a Labor Contract)

Article 4.

(1) An employer shall ensure that a worker gains an in-depth understanding of the working conditions and the contents of the labor contract presented to the worker.

(2) A worker and an employer shall confirm the contents of the labor contract (including matters concerning a fixed-term labor contract), whenever possible in writing.

(Consideration to Safety of a Worker)

Article 5. An employer shall, in association with a labor contract, give the necessary consideration to allow a worker to work while securing the safety of his/her life, body and the like.

CHAPTER II

ESTABLISHMENT OF AND CHANGES TO A LABOR CONTRACT

(Establishment of a Labor Contract)

Article 6. A labor contract shall be established by agreement between a worker and an employer on the basis that the worker shall work by being employed by the employer and the employer shall pay wages for such work.

Article 7. In cases where a worker and an employer conclude a labor contract, if the employer had informed the worker of the rules of employment that provide for reasonable working conditions, the contents of the labor contract shall be based on the working conditions provided by such rules of employment; provided, however, that this shall not apply to any portion of the labor contract in which the worker and the employer had agreed on working conditions that are different from the contents of the rules of employment, except in cases that fall under Article 12.

(Change to the Contents of a Labor Contract)

Article 8. A worker and an employer may, by agreement, change any working conditions that constitute the contents of a labor contract.

(Change to the Contents of a Labor Contract Based on Rules of
Employment)

Article 9. An employer may not, unless 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; provided, however, that this shall not apply to the cases set forth in the following Article.

Article 10. In cases where an employer changes the working conditions by changing the rules of employment, if the employer informs the worker of the changed rules of employment, and if the change to the rules of employment is reasonable in light of the extent of the disadvantage to be incurred by the worker, the need for changing the working conditions, the appropriateness of the contents of the changed rules of employment, the status of negotiations with a labor union or the like, or any other circumstances pertaining to the change to the rules of employment, the working conditions that constitute the contents of a labor contract shall be in accordance with such changed rules of employment; provided, however, that this shall not apply to any portion of the labor contract which the worker and the employer had agreed on as being the working conditions that are not to be changed by any change to the rules of employment, except in cases that fall under Article 12.

(Procedure for Changing the Rules of Employment)

Article 11. Procedures for changing the rules of employment shall be governed by the provisions of Article 89 and Article 90 of the Labor Standards Act (Act No. 49 of 1947).

(Labor Contract in Violation of the Rules of Employment)

Article 12. A labor contract that stipulates any working conditions that do not meet the standards established by the rules of employment shall be invalid with regard to such portions. In this case, the portions which have become invalid shall be governed by the standards established by the rules of employment.

(Relationship of the Rules of Employment with Laws and Regulations and Collective Agreements)

Article 13. In cases where the rules of employment violate any law or regulations or collective agreement, the provisions of Article 7, Article 10 and the preceding Article shall not apply to a labor contract with a worker to whom said law or regulations or collective agreement applies, with regard to said portion in violation.

CHAPTER III

CONTINUATION AND TERMINATION OF A LABOR CONTRACT

(Temporary Transfer)

Article 14. In cases where an employer may order the temporary transfer of a worker, if such order of temporary transfer is found to be an abuse of right in light of the need for such temporary transfer, the circumstances pertaining to the selection of the worker to be temporarily transferred, or any other circumstances, such order shall be invalid.

(Disciplinary Action)

Article 15. In cases where an employer may take disciplinary action against a worker, if such disciplinary action lacks objectively reasonable grounds and is not found to be appropriate in general societal terms in light of the characteristics and mode of the act committed by the worker pertaining to such disciplinary action and any other circumstances, such disciplinary order shall be treated as an abuse of right and be invalid.

(Dismissal)

Article 16. A dismissal shall, if it lacks objectively reasonable grounds and is not considered to be appropriate in general societal terms, be treated as an abuse of right and be invalid.

CHAPTER IV

FIXED-TERM LABOR CONTRACT

Article 17.

- (1) With regard to a fixed-term labor contract, an employer may not dismiss a worker until the expiration of the term of such labor contract, unless there are unavoidable circumstances.
- (2) With regard to a fixed-term labor contract, an employer shall give consideration to not renewing such labor contract repeatedly as a result of prescribing a term that is shorter than necessary in light of the purpose of employing the worker based on such labor contract.

CHAPTER V

MISCELLANEOUS PROVISIONS

(Special Provisions on Mariners)

Article 18.

(1) The provisions of Article 12 and the preceding Article shall not apply to mariners to whom the Mariners Act (Act No. 100 of 1947) applies (referred to as “mariners” in the following paragraph).

(2) With regard to mariners, the term “Article 12” in Article 7 shall be deemed to be replaced with “Article 100 of the Mariners Act (Act No. 100 of 1947),” the term “Article 12” in Article 10 shall be deemed to be replaced with “Article 100 of the Mariners Act,” the term “Article 89 and Article 90 of the Labor Standards Act (Act No. 49 of 1947)” shall be deemed to be replaced with “Article 97 and Article 98 of the Mariners Act,” and the term “the preceding Article” in Article 13 shall be deemed to be replaced with “Article 100 of the Mariners Act.”

(Exclusion from Application)

Article 19.

(1) This Act shall not apply to national public officers nor local public officers.

(2) This Act shall not apply to a labor contract in cases where an employer only employs a relative(s) living together.

SUPPLEMENTARY PROVISIONS

(Effective Date)

Article 1. This Act shall come into effect as from the day specified by a Cabinet Order within a period not exceeding three months from the date of promulgation.

(Partial Revision of the Labor Standards Act)

Article 2. The Labor Standards Act shall be partially revised as follows.

Article 18-2 shall be deleted.

Article 93 shall be revised as follows.

(Relationship with a Labor Contract)

Article 93. The relationship between a labor contract and rules of employment shall be governed by the provisions of Article 12 of the Labor Contract Act (Act No. 28 of 2007).

(Partial Revision of the Local Public Officers Act)

Article 3. The Local Public Officers Act (Act No. 261 of 1950) shall be partially revised as follows.

The term “, Article 18-2” in Article 58(3) shall be deleted.

(Partial Revision of the Local Public Enterprise Act and the Local Independent Administrative Agency Act)

Article 4. The term “and Article 18-2” in the following provisions of Acts shall be deleted:

- (i) Article 39(1) of the Local Public Enterprise Act (Act No. 292 of 1952)
- (ii) Article 53(1)(i) of the Local Independent Administrative Agency Act (Act No. 118 of 2003)

(Partial Revision of the Whistleblower Protection Act)

Article 5. The Whistleblower Protection Act (Act No. 122 of 2004) shall be partially revised as follows.

The term “Article 18-2 of the Labor Standards Act” in Article 6(2) shall be revised to read “Article 16 of the Labor Contract Act (Act No. 128 of 2007)” and the following paragraph shall be added to said Article.

(3) The provisions of paragraph (1) of the preceding Article shall not preclude application of the provisions of Article 14 and Article 15 of the Labor Contract Act.

Article 6. The Japan Pension Organization Act (Act No. 109 of 2007) shall be partially revised as follows.

The phrase “(meaning the temporary transfer prescribed in Article 14(2) of the Labor Contract Act [Act No. 128 of 2007])” in Article 51(2) shall be deleted.