

Dismissal Notification

Need to give workers prior notice of not less than 30 days!

Dismissal will affect workers' life adversely. To provide a cushion against straitened circumstances of workers caused by the sudden dismissal, Labor Standard Act established certain formalities for employers to follow. (Article 20)

1. Procedural Guideline when dismissing employee

The objective and rational reasons are necessary when an employer compelled to dismiss an employee. Besides, no matter what reasons are, an employer has to follow (1) or (2) formalities listed below in principal.

(1) Need to give workers prior notice of not less than 30 days

In case of giving prior notice less than 30 days, an employer has obligation to pay the average wage of missing days. (Notify dismissal 15 days before → Pay average wage of 15 days = Dismissal Notice Payment)

(Example case)

Need to notify at the latest by March 1st  Dismiss on the March 31st

The notification day will not be counted as necessary 30 days

(2) In case of dismiss an employee without prior notification, an employer is strictly obliged to make certain payment that is average wage of 30 working days. The payment have to be made on the day of dismissal.

Specific example of how to calculate Dismissal Notice Payment

(Case: Dismissed day: December 31st / Cut-off day: 15th every month, the payment at the end of the following month)

Dismissal
Notice
Payment

$$\begin{aligned} & \text{Total wage of (September 16th ~ October 15th) + (October 16th ~November 15th) +} \\ & \text{(November 16th~December 15th)} \\ & \text{Total working days (30 days + 31days + 30 days)} \end{aligned} \times 30$$



2. Exemption for dismissal notification

DN = Dismissal Notification

The DN stipulation under the condition listed below will be exempted. (Labor Standard Act article 21)

Daily employment. (Only when an employee is NOT hired continuously for over 1 month.)

2 months period limited employment. (In case of extension of the employment period, DN won't be exempted.)

Seasonal employment limited to 4 months. (In case of extension of the employment period, DN won't be exempted.)

Trial employment (In case of extension of employment period for over 14 days, DN won't be exempted.)

3. The term that an employer is banned to dismiss an employee

An employer is banned to dismiss an employee during the terms listed below. (Labor Standards Act Article 19)

Down period caused by injury or sickness at work and 30 days subsequent.

Maternity leave taken in accordance with statutory entitlement and 30 days subsequent.

Question and Answer related to Dismissal Notification formalities

Q1. In case of punitive dismissal, is it OK to fire an employee immediately without paying DNP?

A1. "Punitive Dismissal" is defined as "Dismissal because of an employee's wrongdoing or disciplinable action", however, even an employee is subjected to disciplinary action, an employer has to follow the certain formalities instead of firing him/her immediately. Labor Standard Act also set the cases listed below are exceptional.

1. Untenable state of business caused by natural disaster or unexpected incident.
2. The reported employee's disciplinable action is certified as violation of a contract by the head of relevant labor standards supervision office.

Q2. Is it obligated to pay the wage during the redundancy notice period?

A2. Yes. An employer is obliged to pay wage of the working days of an employee during the redundancy notice period and also his/her paid leave.

Q3. Is it OK to give dismissal notice verbally only?

A3. Verbal notification is in operation, however, to avoid future trouble, it should be done in writing.

Q4. I would like to know the reason of dismissal.

A4. An employee has right to apply for a certificate relate to dismissal reasons during the redundancy notice period or after retirement. An employer is obliged to issue the certificate without delay when applied. (Labor Standard Act Article 22)

◆ If you have any questions, please contact your nearest Prefectural Labor Bureau or Labor Standards Inspection Office.



Otaru Labor Standards Inspection Office Kutchan Branch 0136-22-2374 (Every Tuesday & Thursday)