I. Description of Labour Standards Law

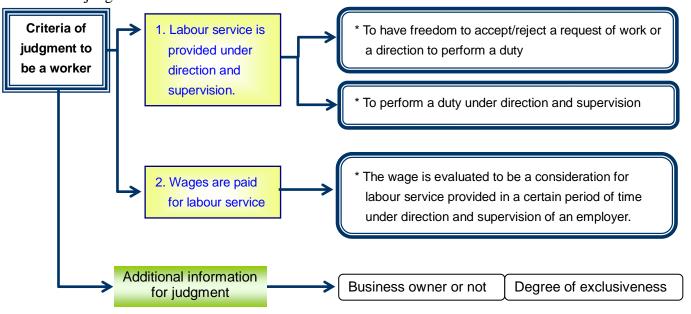
<<< 1. **Definition** >>>

Worker (Article 9)

"A worker" to whom the Labour Standards Law applies is prescribed as follows:

- 1. One who is employed at an enterprise or office, and
- 2. receives wages therefrom,
- 3. Without regard to the kind of occupation.

Criteria of judgment whether to be a worker or not in Labour Standards Law



Wage (Article 11)

In this act, wage means the wage, salary, allowance, bonus and every other payment to the worker from the employer as remuneration for labor.

A bonus or an allowance for retirement is included when the requirements for payment are clearly indicated in rules of employment or the like.

Average Wage (Article 12)

The amount of the average wage means the amount obtained by dividing the total amount of wages for a period of 3 months preceding the day on which the reason to be calculated the average wage arose by the number of all days during the period

- * When there is a fixed day for closing the wage account, the latest closing day for payment shall be calculated from the last such fixed day.
- * For a worker who has been employed for less than 3 months, the period for calculation shall be the period of employment.

Labour Standards Law --- The Essentials

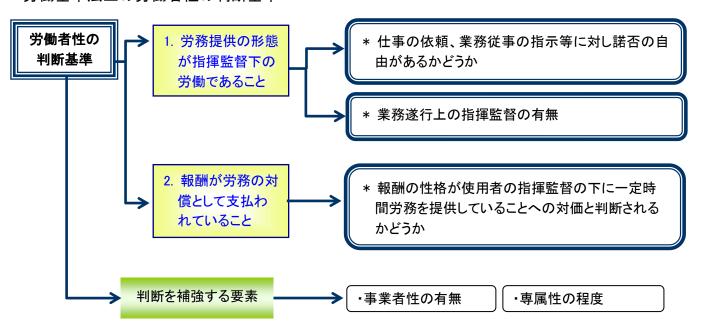
I. 労働基準法の解説

<<< 1. 定義 >>>

労働者(第9条)

労働基準法が適用される労働者は、①職業の種類を問わず、 ②事業または事務所に使用され、をいいます。 ③賃金を支払われる者

労働基準法上の労働者性の判断基準



賃金 (第11条)

賃金とは、名称の如何を問わず、労働の対償として使用者が労働者に支払うすべてのものをいいます。 就業規則などであらかじめ支給条件が明確に定められている賞与や退職金なども賃金に含まれます。

平均賃金(第12条)

平均賃金とは、これを算定すべき事由の発生した日以前3ヶ月間に、その労働者に対し支払われた賃金の 総額を、その期間の総日数で除した金額をいいます。

- * 賃金締切日がある場合は、その起算日は直前の賃金締切日です。
- * 雇入れ後3ヶ月に満たない者については、計算期間は雇入れ後の期間です。

<< 2. <u>Labour Contract</u>, <u>Dismissal and Retirement</u> >>>

Contract Violates the Labour Standards Law (Article 13)

A labor contract which provides for working conditions which do not meet the standards of this Act shall be invalid with respect to such portions, and the portions which have become invalid shall be governed by the standards set forth in this Act.



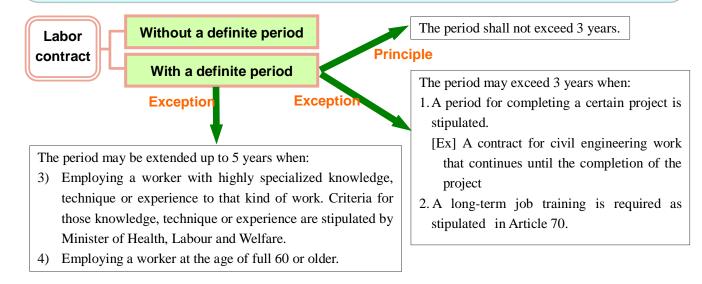
The above provision shall be invalid.

The above applies according to Article 37.

Period of Labour Contract (Article 14)

Labor contracts, excluding those without a definite period, and excepting those providing that the period shall be the period necessary for completion of a specified project, shall not be concluded for a period exceeding 3 years (or 5 years for an employee who engages in a specified operation or those at the age of full 60 or older).

As for the labour contracts with a definite period, the Office Director of Labour Standards Inspection Office shall provide necessary advice or guidance to an employer according to the standards that are stipulated by the Minister of Health, Labour and Welfare.



Clear Statement of Working Conditions (Article 15)

- 1. In concluding a labour contract, an employer shall clearly indicate the wages, working hours and other working conditions to a worker.
- 2. In the event that the working conditions as clearly indicated under the provisions of the preceding paragraph differ from actual fact, the worker may immediately cancel the labor contract.
- 3. In a case under the preceding paragraph, in the event a worker who has changed his or her residence for the work returns home within 14 days from the date of cancellation, the employer shall bear the necessary traveling expenses for the worker.

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<<< 2. 労働契約と解雇・退職 >>>

労働基準法違反の契約 (第13条)

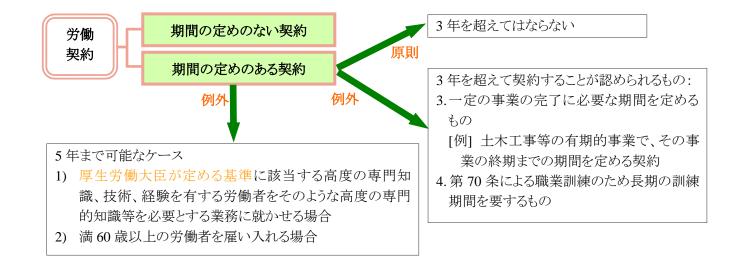
労働基準法に定める基準に満たない労働条件は無効であり、無効となった部分は同法に定める基準が適用されます。



労働契約期間(第14条)

労働契約の期間は、期間の定めのないものを除き、一定の事業の完了に必要な期間を定めるもののほかは、3年(特定の業務に就く者を雇入れる場合や、満60歳以上の者を雇入れる場合には5年)を超えてはなりません。

また、期間の定めのある労働契約については、厚生労働大臣が定める「有期労働契約の締結、更新及び雇止めに関する基準」に基づき、労働基準監督署長等は、使用者に対し、必要な助言・指導を行います。



労働条件の明示 (第15条)

- 1. 使用者が労働者を採用するときは、賃金、労働時間その他労働条件を書面などで明示しなければなりません。
- 2. 明示された労働条件と事実が相違している場合には、労働者は即時に労働契約を解除することができます。
- 3. 2 の場合、就業のために住居を変更した労働者が、契約解除の日から 14 日以内に帰郷する場合には、使用者は必要な旅費などを負担しなければなりません。

Items that shall be stated in writing

- 1. Terms of an employment contract
- 2. Workplaces and details of duty
- 3. Starting and closing hours, possibility of overtime work, rest hours, holidays, leaves and matters regarding work shift
- 4. Procedure to determine, calculate and pay wages and matters regarding the closing day of wages and the payday.
- Matters regarding leaving of employment (including reasons for dismissal)

Items that can be stated orally or in writing

- 1. Increase in wages
- 2. Scope of workers covered for retirement allowance, procedure to determine, calculate and pay allowance, and timing of payment
- 3. Special purpose wages and bonus
- 4. Meal expense, working tools or the like that are paid by worker
- 5. Safety and health
- 6. Vocational training
- 7. Accident compensation and assistance for illness/injury incurred off duty
- 8. Commendation and sanction
- 9. Leave of absence

Ban on Predetermined Indemnity (Article 16)

An employer shall not make a contract which fixes in advance either a sum payable to the employer for breach of contract or an amount of indemnity for damages.

* This does not mean to prohibit indemnity for an actual damage caused by worker.

Rules on Dismissal (Labor Contact Law: Article 18-2)

A dismissal shall, where the dismissal lacks objectively reasonable grounds and is not considered to be appropriate in general societal terms, be treated as a misuse of that right and invalid.

In case of dismissal for the purpose of reorganization, the following four requirements shall all be satisfied:

1. Necessity on management

A pressing necessity on management can be objectively admitted such as a brink of collapse.

3. Rationality in personnel selection for dismissal

The criteria for selection are rational, such as length of service or age of worker, and are applied appropriately.

2. Effort to avoid dismissal

An employer has made utmost effort to avoid dismissal such as reallocation, external assignment, seeking for voluntary retirement, decrease in wages, etc.

4. Agreement between labour and management

An employer has made his best effort to gain consent of workers after adequate discussion regarding necessity, timing, method, scale of dismissal and criteria for personnel selection.

書面の交付による明示事項

- 1. 労働契約の期間
- 2. 就業の場所・従事する業務の内容
- 3. 始業・終業時刻、所定労働時間を超える 労働の有無、休憩時間、休日、休暇、交 替制勤務をさせる場合は就業時転換に 関する事項
- 4. 賃金の決定・計算・支払いの方法、賃金の締切り・支払いの時期に関する事項
- 5. 退職に関する事項(解雇の事由を含む)

口頭の明示でもよい事項

- 1. 昇給に関する事項
- 2. 退職手当の定めが適用される労働者の範囲、退職 手当の決定、計算・支払いの方法、支払いの時期 に関する事項
- 3. 臨時に支払われる賃金・賞与などに関する事項
- 4. 労働者に負担させる食費・作業用品その他に関する事項
- 5. 安全衛星に関する事項
- 6. 職業訓練に関する事項
- 7. 災害補償、業務外の傷病扶助に関する事項
- 8. 表彰、制裁に関する事項
- 9. 休職に関する事項

賠償予定の禁止(第16条)

労働契約の不履行について違約金を定めたり、損害賠償額を予定する契約をしてはいけません。

* 現実に労働者の責任により発生した損害について賠償を請求することまでを禁止したものではありません。

解雇のルール (第18条の2)

解雇は、客観的に合理的な理由を欠き、社会通念上相当であると認められない場合は、その権利を濫用したものとして、無効となります。

会社の経営不振等を理由とする労働者の「整理解雇」については、原則として以下の四要件すべてを満たす必要があります。

1. 経営上の必要性

倒産寸前に追い込まれているなど、整理解 雇をしなければならないほどの経営上の必 要性が客観的に認められること

3. 人選の合理性

勤続年数や年齢など解雇の対象者を選定する基準が合理的で、かつ、基準に沿った 運用が行われていること

2. 解雇回避の努力

配置転換、出向、希望退職の募集、賃金の引下げその他整理解雇を回避するために、会社が最大限の努力を尽くしたこと

4. 労使間での協議

整理解雇の必要性やその時期、方法、規模、人選の 基準などについて、労働者側と十分に協議をし、納 得を得るための努力を尽くしていること。

Restrictions on Dismissal of Workers (Article 19)

- 1. An employer shall not dismiss a worker during a period of absence from work for medical treatment with respect to injuries or illnesses suffered in the course of employment nor within 30 days thereafter, and shall not dismiss a woman during a period of absence from work before and after childbirth in accordance with the provisions of Article 65 nor within 30 days thereafter; provided, however, that this shall not apply in the event that the employer pays compensation for discontinuance in accordance with Article 81 nor when the continuance of the enterprise has been made impossible by a natural disaster or other unavoidable reason.
- 2. In case of dismissal due to the said unavoidable reason, the employer shall obtain an approval of the Office Director of Labour Standards Inspection Office with respect to the reason in question.
- ♦ Restricted period ◆
- 1) In case a worker takes leaves due to injury or illness suffered in the course of employment:



2) In case of maternity leave



Advance Notice of Dismissal (Article 20)

In the event that an employer wishes to dismiss a worker, the employer shall provide at least 30 days advance notice. An employer who does not give 30 days advance notice shall pay average wages for a period of not less than 30 days.

1. On dismissal

Breach of Labour Standards Law does not occur when an employer:

\[\int \text{ gives a worker an advance notice of dismissal at least 30 days before.} \]

\[\text{ pays a worker average wages for 30 days or more} \]

(The number of days of notice may be reduced for the days an employer pays allowance of average wages.)

2. Advance notice can be omitted when:

- (1) There is an unavoidable cause such as natural disaster that makes business unable to continue and the Office Director of Labour Standards Inspection Office approves it.
- (2) A worker is dismissed for the reason attributable to him/her and the Office Director of Labour Standards Inspection Office approves it. → Ex.) Embezzlement, injury, absence without permission for more than two weeks, and the like

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解雇制限 (第19条)

- 1. 労働者が業務上負傷したり、病気になった場合に、その療養のために休業する期間及びその後30日間と、産前産後の女性が第65条の規定によって休業する期間及びその後30日間は解雇できません。ただし、使用者が第81条の規定によって打切補償を支払った場合や、天災事変などやむを得ない事由により事業の継続ができなくなった場合はこの限りではありません。
- 2. 天災事変その他やむを得ない事由による解雇については、その事由について所轄の労働基準監督 署長の認定を受けなければなりません。
- ◆ 解雇制限期間 ◆
- 1) 業務上負傷または疾病で休業する場合



2) 産前産後休業の場合



解雇の予告(第20条)

労働者を解雇しようとする場合は、少なくとも 30 日以上前に予告するか、30 日分以上の平均賃金を支払わなければなりません。

1. 解雇をする場合

使用者は、

{ 30 日以上前に解雇予告をすれば 30 日分以上の平均賃金を支払えば } 労働基準法違反とはならない。

(平均賃金を何日分か支払った場合には、その日数分だけ予告期間が短縮されます。)

2. 解雇予告などが除外される場合

- (1) 天災事変その他やむを得ない事由で事業の継続が不可能となり、所轄の労働基準監督署長の認 定を受けたとき → 例;火災による焼失、地震による倒壊など
- (2) 労働者の責に帰すべき事由によって解雇するときで、所轄の労働基準監督署長の認定を受けたとき。この認定は、解雇の意思表示をなす前に受けるのが原則です。 → 例;横領・傷害、2 週間以上の無断欠勤など

3. Advance notice of dismissal is not required for:

(1) Workers on day-wages:

(2) Workers employed with a definite period of 2 months or shorter:

(3) Seasonal workers employed with a definite period of 4 months or shorter:

(4) Unless a worker is employed continuously for more than the contract period of 4 months or shorter:

(5) Workers on day-wages:

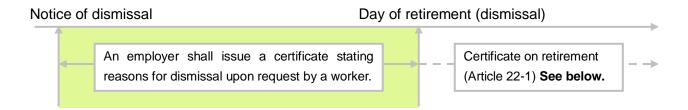
(6) Unless a worker is employed continuously for more than the contract period of 4 months or shorter:

(4) Workers in the probational period:

Certificate on Reasons for Dismissal (Article 22-2)

In the event that, between the day on which a worker is given an advance notice of dismissal and the day on which such worker leaves employment, the worker requests a certificate stating the reasons for dismissal, the employer shall deliver one without delay; provided, however, if after the advance notice of dismissal the worker leaves employment for reasons other than the dismissal, the delivery of such certificate shall not be required.

14days



Certificate on Retirement (Article 22-1)

When a worker on the occasion of retirement requests a certificate stating details of the contract, the employer shall deliver one without delay.

The employer shall not include in the certificate any item that the worker does not request.

Items required to certify:

- 1) Period employment
- 2) The kind of occupation
- 3) The position in the enterprise
- 4) Wage
- 5) Cause for retirement (including the reasons for dismissal)

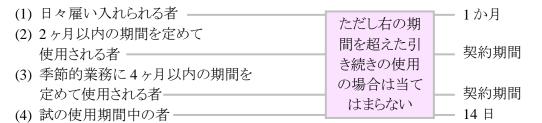
Return of Money and Goods (Article 23)

Upon a worker's death or retirement, in the event of a request by one having the right thereto, the employer shall pay the wages and return the reserves funds, security deposits, savings and any other money and goods to which the worker is rightfully entitled, regardless of the name by which such may be called, within 7 days.

In the event there is a dispute over the wages and/or money and goods, the employer shall pay and/or return any undisputed portions within the period referred above.

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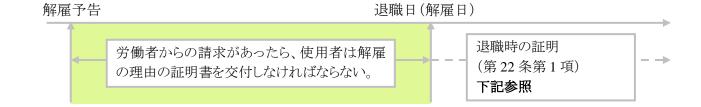
3. 解雇予告などを行わずに解雇することができる者



解雇理由の証明 (第22条第2項)

解雇の予告がされた日から退職の日までの間に、労働者が当該解雇の理由について証明書を請求したときは、使用者は遅滞なく、これを交付しなければなりません。

ただし、解雇の予告がされた日以降に、労働者が当該解雇以外の事由により退職したときは、使用者は、その労働者の退職日の以後、上記の証明書を交付する必要はありません。



退職時の証明(第22条第1項)

労働者が退職の場合に、在職中の契約内容などについて証明書の交付を請求したときは、使用者は 遅滞なく、これを交付しなければなりません。

なお、労働者の請求しない事項を記入してはいけません。

証明事項:

- 1) 使用期間
- 2) 業務の種類
- 3) 当該事業における地位
- 4) 賃金
- 5) 退職の事由(退職の事由が解雇の場合にあっては、その理由を含む)

金品の返還 (第23条)

労働者の死亡または退職の場合で、権利者の請求があった場合には、請求を受けた日から 7 日以内に、賃金を支払い、積立金、保証金、貯蓄金その他名称の如何を問わず、労働者の権利に属する金品を返還しなければなりません。

なお、賃金または金品に関して争がある場合には、異議のない部分を、その期間中に支払い、または 返還しなければなりません。

1. Person entitled

The person entitled shall be the worker himself/herself in case of dismissal and the heirs in case of death. Any creditors in relation of loan with the worker are not included. It is important to have certificate of entitlement by a copy of family register or the like, when there is a doubt in entitlement on the person who requests.

2. Wage

The wage to be paid in this article indicates the unpaid wage. Retirement allowance shall be included in wage if labor agreement or rules of employment stipulate the conditions for payment.

3. Money or valuables that belong to a worker

The money or valuables that a worker asked an employer to deposit or custody shall be included.

Payment of Wages (Article 24)

Wages shall be paid in currency and in full directly to the workers at least once a month at a definite date. Partial deduction from wages such as tax and social insurance premium may be permitted in cases otherwise provided for by law or ordinance, or in cases where there exists a written agreement with a trade union organized by a majority of the workers at the workplace, where such a union exists, or with a person representing a majority of the workers, where no such union exists.

An employer may pay worker's wages into his/her savings account of financial facilities on the following conditions: ①The worker's consent is obtained. ②Wages are paid into a worker's savings account designated by the worker ③wages can be withdrawn by a worker in full amount on payday. (An employer may pay a worker's wage or retirement allowances into a worker's deposit-received account of a securities company that satisfies specific requirements.)

An employer may pay workers' retirement allowances by any of the means specified below with workers' consent: ①By bank cashier's checks ②By certified ③By postal money orders.

5 principles for wage payment

1. in cash
2. in full amount
3. at least once a month
4. on a definite date

5. directly to a worker.

Allowance for Absence from work (Article 26)

In the event of an absence from work for reasons attributable to the employer, the employer shall pay an allowance equal to at least 60 percent of the worker's average wage to each worker concerned during the period of absence from work.

Minimum Wages (Article 28)

Minimum standards for wages shall be in accordance with the provisions of the Minimum Wages Act.

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1. 権利者

退職の場合は本人、死亡の場合は相続人をいい、金銭賃借関係にある債権者は含みません。なお、請求 者が権利者であるかどうか疑わしい場合には、戸籍謄本などにより権利者であることを証明してもらうことが 大切です。

2. 賃金

ここでは未払いの賃金をいいます。また、「退職金」については、労働協約や就業規則などであらかじめ支給条件が定められているものは「賃金」となります。

3. 権利に属する金品

労働関係に関連して労働者が使用者に預け入れまたは保管を依頼したものなどをいいます。

<<< 3. 賃金 >>>

賃金の支払 (第24条)

賃金は、通貨で、全額を、毎月 1 回以上、一定の期日を定めて、労働者に直接支払わなければなりません。また、賃金から税金、社会保険料など法令で定められているもの以外のものを控除する場合には、労働者の過半数で組織する労働組合または労働者の過半数を代表する者との労使協定が必要です。

なお、一定の条件(①労働者の同意を得ること、②労働者の指定する本人名義の預貯金口座に振り込まれること、③賃金の全額が所定の支払日に払い出し得ること)を満たせば、金融機関への振込により支払うことができます(証券会社の一定要件を満たす預かり金に該当する証券総合口座への賃金及び退職手当の振込も可能です)。

また、退職手当については労働者の同意を条件に、①銀行振出小切手、②銀行支払保証小切手、③郵 便為替により支払うことができます。

賃金支払 5 原則

 1. 通貨で

 2. 全額を

 3. 毎月1回以上

 4. 一定期日に

 5. 直接労働者に
 支払う。

休業手当(第26条)

会社側の都合により労働者を休業させた場合には、休業させた所定労働日について、平均賃金の6割以上の手当(休業手当)を支払わなければなりません。

最低賃金(第28条)

賃金の最低基準は、最低賃金法に定めるところによります。

Workers who are reduced minimum wages as an official exception are:

- 1. Those who have extremely low ability to work due to psychological or physical handicap,
- 2. Those who are employed on probation,
- 3. Those who receive designated job training,
- 4. Those a) whose working hours are significantly short, b) who do simple duty, c) who engaged in intermit labor.

<< 4. Working Hours, Rest Periods and Days Off >>>

Working Hours (Article 32)

An employer shall not have a worker work more than 8 hours per day and 40 hours per week, excluding rest periods.

Rest Periods (Article 34)

- 1 An employer shall provide workers with at least 45 minutes of rest periods during working hours in the event that working hours exceed 6 hours, and at least one hour in the event that working hours exceed 8 hours.
- 2 The rest periods shall be provided to all workers at the same time; however, this shall not be required when a labour-management agreement is concluded (except for specified industries).

Days Off (Article 35)

An employer shall provide workers with at least one day off per week or 4 days off in 4 weeks. A day off means a day that includes no working duty, as stipulated in working contract. A day off is a calendar day of 24 hours from 0:00 a.m. till 12:00 p.m.

When a worker does not engage in his/her work during these 24 hours, that day can be considered as a day off. If a work overlaps into the following day that is supposed to be a day off, that day shall not be regarded as a day off.

Comparison of Substitute Holiday and Compensatory Holiday:

-	G. 1	j
	Substitute Holiday	Compensatory Holiday
When	Holiday work is required, but 36	A worker is obliged to work on holiday
	agreement has not been concluded.	or for prolonged hours and take day-off
		in compensation for it.
Terms	1) Substitute holidays are	
	prescribed in rules of employment.	
	2) 4 rest days are required to be	
	secured other than substitute	None
	holidays.	
	3) Notice the worker at least on	
	previous day.	
Choice	An employer shall decide the date in	An employer can decide or a worker can
	advance.	apply for the date.
Wage	When a substitute holiday comes in the	An employer shall pay increased wage
	same week as holiday work, an	for the holiday work. Whether wage is
	employer shall pay regular wage for the	paid for compensatory holiday or not
	holiday work.	depends on stipulation in rules of
		employment.

Labour Standards Law --- The Essentials

最低賃金の減額特例を受ける者

- 1. 精神または身体の障害により著しく労働能力の低い者
- 2. 試の使用期間中の者
- 3. 認定職業訓練を受ける者のうち一定の者
- 4. a) 所定労働時間の特に短い者 b)軽易な業務に従事する者 c) 断続的労働に従事する者

<<< 4. 労働時間·休憩·休日 >>>

労働時間(第32条)

休憩時間を除いて1日に8時間、1週間に40時間を超えて労働させてはいけません。

休憩 (第34条)

- 1 労働時間が6時間を超える場合は45分以上、8時間を超える場合には1時間以上の休憩を労働時間の途中に与えなければなりません。
- 2 休憩は、全労働者に一斉に付与することが原則ですが、労使協定を締結(特定の業種については不要)することにより、一斉付与は適用除外となります。

休日 (第35条)

毎週少なくとも1日の休日か、4週間を通じて4日以上の休日を与えなければなりません。

休日とは、労働契約において労働義務がないとされている日をいいます。

休日は、原則として暦日、すなわち、午前0時から午後12時までの24時間をいいます。

午前0時から午後12時までの間に勤務しない場合が休日であり、所定休日とされている日でも前日の労働が延長されて午前0時を超えた場合などは、休日を与えたことにはなりません。

振替休日と代休の相違点

*** T	14)1> [#Z=W	
項目	振替休日	代休
どんな場	36 協定が締結されていない場合などに休	休日労働や長時間労働をさせた場合に、
合に	日労働をさせる必要が生じたとき	その代償として他の労働日を休日とする時
要件	1) 就業規則に振替休日を規定	
	2) 4 週 4 日の休日を確保したうえで、振替	特になし
	休日を特定	はたなり
	3) 遅くとも前日までに本人に予告	
指定	あらかじめ使用者が指定	使用者が指定することもあるし、労働者の
		申請によって与えることもある
賃金	振替休日が同一週内の場合、休日出勤日	休日出勤日に割増賃金の支払いが必要。
	に通常の賃金を支払えばよく、振替休日に	代休日に賃金を支払うかどうかは就業規則
	賃金を支払う必要はない	などの規定による

Overtime Work and Work on Days Off (Article 36)

In the event that the employer has entered into a written agreement either with a labor union organized by a majority of the workers at the workplace, or with a person representing a majority of the workers at the workplace where no such union exists, the employer may extend the working hours or have workers work on days off. The agreement shall be submitted to the Office Manager of Labour Standards Inspection Office of jurisdiction in advance.

1. Items to be agreed

- 1. Specific reasons that overtime or day off work is required.
- 2. Duty and the number of workers
- 3. The amount of overtime for one day, as well as for the period of 3 months or less, and for one year.
- 4. Dates for holiday work, and the opening and closing time on those dates.
- 5. The validity period

2. Upper limit for overtime work

pper mint for overtime work									
		Worker subject to irregular working							
Reg	gular worker	hour system for longer than 3 months							
		with yearly rene	ewal						
Period	Upper limit (hours)	Period	Upper limit (hours)						
1 week	15	1 week	14						
2 weeks	27	2 weeks	25						
4 weeks	43	4 weeks	40						
1 month	45	1 month	42						
2 months	81	2 months	75						
3 months	120	3 months	110						
1 year	360	1 year	320						

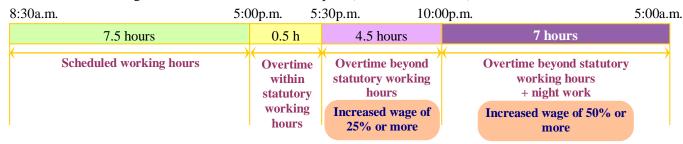
Increased Wages for Overtime Work, Work on Days Off and Night Work (Article 37)

In the event that an employer extends working hours or has a worker work on days off, the employer shall pay increased wages for work during such hours or on such days per working hour or working day.

Increased wages shall be 25% for overtime and night work (from 10:00 p.m. to 5:00 a.m.) labor and 35% for labor on statutory days off.

Increased Rate for Overtime (Days Off) Work

Ex: Scheduled working hours are from 8:30a.m. to 5:00p.m. (with one hour break).



Labour Standards Law --- The Essentials

時間外及び休日の労働(第36条)

時間外または休日に労働させる場合には、労働者の過半数で組織する労働組合か労働者の過半数を代表する者と労使協定を締結し、事前に所轄の労働基準監督署長に届け出なければなりません。

1. 協定する項目

- 1. 時間外または休日の労働をさせる必要のある具体的な事由
- 2. 対象労働者の業務、人数
- 3. 1日についての延長時間のほか、1日を超え3ヶ月以内の期間及び1年間についての延長時間
- 4. 休日労働を行う日とその始業・終業時刻
- 5. 有効期間

2. 時間外労働の限度に関する基準

「中国の一方面の体及に関する金十								
一般的	労働者の場合	対象期間が3か月を超える1年単位の 変形労働時間制の対象者の場合						
期間	限度時間	期間	限度時間					
1 週間	15	1週間	14					
2 週間	27	2 週間	25					
4 週間	43	4 週間	40					
1 か月	45	1 か月	42					
2 か月	81	2 か月	75					
3 か月	3 か月 120		110					
1 年	360	1 年	320					

時間外、休日及び深夜の割増賃金(第37条)

時間外、深夜(原則として午後10時~午前5時)に労働させた場合には2割5分以上、法定休日に労働させた場合には3割5分以上の割増賃金を支払わなければなりません。

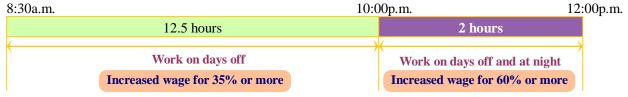
時間外(法定外休日)労働の割増率

例) 所定労働時間が午前8時30分から午後5時(休憩1時間)までの場合

8:30a.m.	5:00p.m. 5	:30p.m. 10:0	00p.m.	5:00a.m.
7.5 時間	0.5 時間	4.5 時間	7 時間	
所定労働時間	法定	法定時間外残業	法定時間外+深夜残業	\longrightarrow
	時間内 残業	割増賃金25%以	割増賃金 50% 以上	
		E		

Increase Rate for Work on Statutory Days off

Ex: When working from 8:30a.m. to 12:00p.m. (with one hour break).



Deemed Working Hours System for Works Outside of Workplace (Article 38 -2)

- 1 In cases where workers perform their work outside of the workplace during all or part of their working hours and it would be difficult to calculate working hours, the number of hours worked shall be deemed to be the prescribed working hours.
- 2 In case it is normally necessary to work in excess of the scheduled working hours in order to accomplish the designated duties, the number of hours worked shall be deemed to be the one normally necessary to accomplish such duties, or

when there is a written labour-management agreement, the number of hours specified in such agreement shall be regarded as the one normally necessary to accomplish the duties under that proviso.

When a worker works outside of workplace:

Deemed Working Hours System is ...

Applied

when a worker performs his/her duty outside of the workplace for all or a part of his/her working hours, and;

- * The detailed instruction and supervision by the employer are not involved.
- . It is difficult to calculate the working hours.

Not applied

when the detailed control and supervision by an employer are involved: <Example>

- 1. A person in charge of time management is included in the workers concerned.
- 2. An employer can always contact the workers concerned using a mobile phone etc., and the duty is performed under the instruction of the employer as needed.
- 3. An employer has given the detailed instruction of the duty and the workers are required to go back to the office.

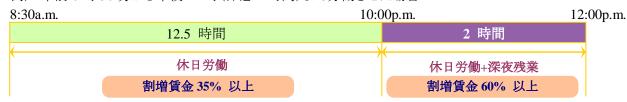
Provisions for Deemed Working Hours:

- 1. The number of hours worked shall be deemed to be the prescribed working hours in principle.
- 2. In case the workers need to work for more than the scheduled working hours, they shall be deemed to work for "the hours necessary for completing the concerned duty"
- 3. When the labour-management agreement specifies such number of hours in 2 above, the workers shall be deemed to work for such hours.

Labour Standards Law --- The Essentials

法定休日労働の割増率

例) 午前8時30分から午後12時(休憩1時間)まで労働させた場合



事業場外労働のみなし労働時間制 (第38条の2)

- 1 労働者が事業場外で労働し、労働時間の算定が困難な場合には、所定労働時間労働したものとみなされます。
- 2 事業場外労働で所定労働時間を超えて労働することが通常必要となる場合においては、「当該業務の遂行に通常必要とされる時間」または「労使協定で定めた時間」労働したものとみなされます。

事業場外労働

みなし労働時間制の・・・

対象

労働時間の全部または一部を事業場外で従事した場合

- ◆ 使用者の具体的な指揮監督が及ばない
- ♣ 労働時間の算定が難しい

対象外

指揮監督が及んでいる場合

<例>

- 4. 従事者の中に労働時間を管理する者がいる場合
- 5. 事業場外で業務に従事する者が、携帯電話等によっていつでも連絡が取れる状態にあ り、随時使用者の指示を受けながら労働している場合
- 6. 業務の具体的指示を受けており、帰社する場合

みなし労働時間の対象となる事業場外労働の労働時間

- 4. 原則として所定労働時間労働したものとみなされます。
- 5. 所定労働時間を超えて労働することが必要となる場合には、「当該業務の遂行に通常必要とされる時間」労働したものとみなされます。
- 6. 2 について、労使協定で「当該業務の遂行に通常必要とされる時間」を定めた場合は、 その時間労働したものとみなされます。

<<< <u>5. Annual Leave with Pay</u> >>>

Annual Paid Leave (Article 39)

An employer shall grant annual paid leave of 10 working days, either consecutive or divided, to workers who have been employed continuously for 6 months from the day of their being hired and who have reported for work on at least 80 percent of the total working days. Part-time job workers shall also be covered in principle.

Number of Days provided as Annual Paid Leave

For workers who work for 5 days or 30 hours or more per week:

D : 1 C :	1	1.5	2.5	2.5	4.5		_ =
Period of continuous service	0.5	1.5	2.5	3.5	4.5	5.5	6.5 or more
Days given	10	11	12	14	16	18	20

For workers who work for less than 4 days or 30 hours per week:

1	For workers who	work for 4 day	s a week or	169~216 days	a year

Period of continuous service	0.5	1.5	2.5	3.5	4.5	5.5	6.5 or more
Days given	7	8	9	10	12	13	15

2) For workers who work for 3 days a week or 121~168 days a year

Period of continuous service	0.5	1.5	2.5	3.5	4.5	5.5	6.5 or more
Days given	5	6	6	8	9	10	11

3) For workers who work for 2 days a week or 73~120 days a year

Period of continuous service	0.5	1.5	2.5	3.5	4.5	5.5	6.5 or more
Days given	3	4	4	5	6	6	7

4) For workers who work for 1 day a week or 48~72 days a year

Period of continuous service	0.5	1.5	2.5	3.5	4.5 or more
Days given	1	2	2	2	3

♦ Timing to take an annual paid leave

A worker has the right to decide the timing to take a annual paid leave. In case that this timing interrupts the ordinary business, the company has the right to change that timing.

♦ The right to request annual paid leaves

This right shall lapse by prescription in two years according to the Article 115 in Labour Standards Law. This right comes into effect on the reference day. The annual paid leaves shall lapse by prescription in two years after the reference day.

♦ Prohibition to give disadvantage to those who have taken annual paid leave (Article 136) An employer shall avoid any disadvantages such as wage reduction or taking the annual paid leave as absence in evaluation for regular/perfect attendance allowance and bonus, by reason of taking paid leaves.

◆ Taking half-day annual paid leave

The Labour Standards Law prescribes the unit for annual paid leaves as one day. Therefore there is no legal obligation for an employer to allow a worker to take a half-day of an annual paid leave upon his/her request.

However it is not illegal for an employer to give a half-day leave.

Labour Standards Law --- The Essentials

<<< 5. 年次有給休暇 >>>

年次有給休暇 (第39条)

年次有給休暇は、雇入れの日から起算して 6 ヶ月間継続勤務し、全所定労働日の 8 割以上出勤した 労働者に対して最低 10 日を与えなければなりません。

いわゆるパートタイム労働者についても、原則として同様に扱うことが必要です。

年次有給休暇の付与日数

週所定労働日数が5日以上または週所定労働時間が30時間以上の労働者

継続勤務年数	0.5	1.5	2.5	3.5	4.5	5.5	6.5 以上
付与日数	10	11	12	14	16	18	20

週所定労働日数が4日以下かつ週所定労働時間が30時間未満の労働者

1) 週所定労働日数が4日または1年間の所定労働日数が169日から216日までの者

継続勤務年数	0.5	1.5	2.5	3.5	4.5	5.5	6.5 以上
付与日数	7	8	9	10	12	13	15

2) 週所定労働日数が3日または1年間の所定労働日数が121日から168日までの者

継続勤務年数	0.5	1.5	2.5	3.5	4.5	5.5	6.5 以上
付与日数	5	6	6	8	9	10	11

3) 週所定労働日数が2日または1年間の所定労働日数が73日から120日までの者

継続勤務年数	0.5	1.5	2.5	3.5	4.5	5.5	6.5 以上
付与日数	3	4	4	5	6	6	7

4) 週所定労働日数が1日または1年間の所定労働日数が48日から72日までの者

継続勤務年数	0.5	1.5	2.5	3.5	4.5 以上
付与日数	1	2	2	2	3

◆年次有給休暇の取得時季

年次有給休暇の取得時季については、労働者に時季指定権があります。なお、指定時季が事業 の正常な運営を妨げるような場合は、会社に休暇時季の変更権が認められています。

◆年次有給休暇の請求権

年次有給休暇の請求権は、労働基準法 第115条 の規定により、2年間で時効によって消滅します。年次有給休暇の請求権は基準日に発生するものであるので、基準日から起算して 2 年間で時効により消滅することになります。

◆年次有給休暇を取得したことによる不利益な取扱いの禁止(第136条)

年次有給休暇を取得した労働者に対して、賃金の減額や精皆勤手当及び賞与の算定などに際 して、欠勤として取り扱うなどの不利益な取扱いはしないようにしなければなりません。

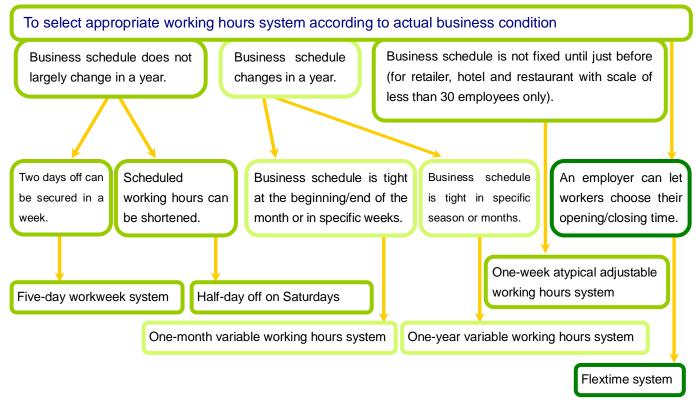
◆年次有給休暇の半日付与

労働基準法は、年次有給休暇の付与を 1 日単位としています。従って、労働者が半日単位で請求しても、これに応じる法的義務はありません。

ただし、請求に応じて半日単位で与えることはできます。

<<< 6. Variable Working Hours System >>>

This system aims at reduction of the whole working hours by allocation according to seasonable change or particularity in business. For example, it can be done by elongating the scheduled working hours during busy season and shortening them during low season.



One-Month Variable Working Hours System (Article 32-2)

In this system, an employer may have a worker work in excess of the statutory working hours for a day or a week, provided that the average working hours per week for a specified period of 1 month or less does not exceed 40 hours (44 hours in case of specified preferential business).

♦ The followings are required in order to newly adopt this system;

- (1) To modify rules of employment,
- (2) To submit to the Office Manager of Labour Standards Inspection Office in the specified form when adopting the system by labour-management agreement.

Flextime System (Article 32-3)

In this system, the starting and ending time for work is left to the worker's own decision, provided that the total working hours for a specified period of a month or shorter satisfy stipulation in this law.

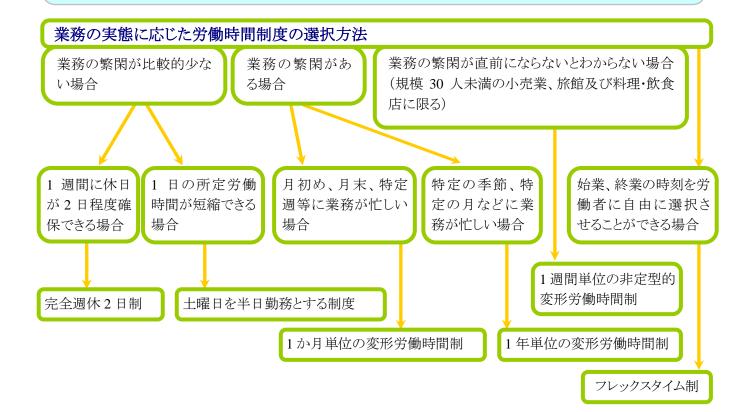
♦ The followings are required in order to newly adopt this system:

- (1) To prescribe that the workers are responsible for determining his/her starting and closing time in rules of employment, etc.
- (2) To prescribe range of workers covered, calculation period for working hours *1, total working hours in the calculation period *2 and reference working hours in one day in labour-management agreement.

Labour Standards Law --- The Essentials

<<< 6. 変形労働時間制 >>>

変形労働時間制とは、繁忙期の所定労働時間を長くする代わりに、閑散期の所定労働時間を短くするといったように、業務の繁閑や特殊性に応じて、労使が工夫しながら労働時間の配分などを行い、これによって全体としての労働時間の短縮を図ろうとするものです。



1か月単位の変形労働時間制(第32条の2)

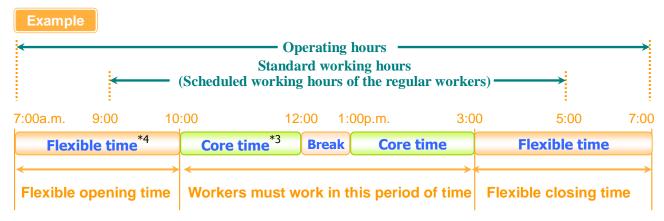
1か月単位の変形労働時間制とは、1か月以内の一定の期間を平均し、1週間の労働時間が40時間(特例措置対象事業場は44時間)以下の範囲内において、1日及び1週間の法定労働時間を超えて労働させることができる制度です。

- ◆ 1 か月単位の変形労働時間制を新規に採用するには、以下が必要となります。
- (1) 就業規則などの変更
- (2) 労使協定の締結により採用する場合は、所定の様式により労働基準監督署長に届け出ること。

フレックスタイム制 (第32条の3)

フレックスタイム制とは、1 か月以内の一定期間の総労働時間を定めておき、労働者がその範囲内で各日の始業及び終業の時刻を選択して働く制度です。

- ◆ フレックスタイム制を採用するには、以下が必要です。
 - (1) 就業規則その他これに準ずるものにより、始業及び終業の時刻を労働者の決定に委ねることを規定すること
 - (2) 労使協定において、対象となる労働者の範囲、清算期間*1、清算期間中の総労働時間*2、標準となる1日の労働時間などを定めること。



*1 Calculation period:

The period in which a number of hours a worker should work is stipulated in regard to labour contract in flextime system. One week or one month can be adopted, but the longest period shall be one month.

*2 Total working hours in the calculation period:

The number of hours that a worker should work in regard to labour contract in flextime system. In other words, the scheduled working hours. This shall be stipulated for every calculation period.

Working hours for a week, calculated by averaging the total hours in the calculation period shall be within the statutory working hours.

*3 Core time:

The hours that a worker must work.

*4 Flexible time:

The hours from which a worker can choose to work.

One-Year Variable Working Hours System (Article 32-4, 32-4-2)

In this system, an employer may have a worker work in excess of the statutory working hours for a day or a week by concluding a labour-management agreement, provided that the average working hours per week for a specified period of 1 year or less does not exceed 40 hours (the same in case of specified preferential business).

♦ The followings are required in order to newly adopt this system

- (1) To conclude labour-management agreement and modify rules of employment
- (2) To submit to the Office Manager of Labour Standards Inspection Office under jurisdiction

♦ Limitation of Working Days and Hours

Working days	 280 days when the specified period is one year. Limitation of working days per year × calendar days of the specified period / 365 days when the period is more than 3 		
	months and less than one year.		
Working hours per day or	10 hours per day and 52 hours per week		
week	Terms for adopting (when the period exceeds 3 months):		
	 The period of weeks when the scheduled working hours are in excess of 48 hours does not exceed 3 weeks consecutively. The number of those weeks is 3 or less in a period of each 3 months. The period is divided into 3 months from the starting 		
	date and all the week start from the day of the week that the starting day falls on.		

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モデルタ



*1 清算期間:

フレックスタイム制において、労働契約上労働者が労働すべき時間を定める期間で、1 か月以内とされています。1 か月 単位のほかに、1 週間単位でも可能です。

*2 清算期間中の総労働時間:

フレックスタイム制において、労働契約上労働者が労働すべき時間です。要するに所定労働時間のことであり、所定労働時間は清算期間を単位として定めることになります。

この時間は、清算期間を平均し1週間の労働時間が法定労働時間の範囲内となるように定める必要があります。

*3 コアタイム:

労働者が必ず労働しなければならない時間帯です。

*4 フレキシブルタイム:

労働者がその選択により労働することができる時間帯です。

1年単位の変形労働時間制(第32条の4、第32条の4の2)

1年単位の変形労働時間制とは、労使協定を締結することにより、1年以内の一定の期間を平均し1週間の労働時間が40時間以下(特例措置対象事業場も同じ)の範囲内において、1日及び1週間の法定労働時間を超えて労働させることができる制度です。

- ◆1年単位の変形労働時間制を新規に採用するには、以下が必要となります。
- (3) 労使協定の締結及び就業規則などの変更
- (4) 所轄の労働基準監督署長への届出

◆労働日数、労働時間の限度

	•
労働日数の限度	★ 対象期間が1年の場合→280日
	♣ 対象期間が3か月を超え1年未満である場合
	→1 年当たりの労働日数の限度×対象期間の暦日数/365 日
1日及び1週間の労働時間	1 日→10 時間 1 週間→52 時間
の限度	導入の要件(3か月を超えた場合)
	① 48時間を超える所定労働時間を設定した週が連続3週間以内である
	こと
	② 起算日から3ヶ月ごとに区切った1期間に、48時間を超える週の初
	日で数えて3回以内であること
連続して労働させる日数の	連続労働日数→6回
限度	(特定期間(対象期間中の特に業務が繁忙な期間)における連続労働日
	数は、労使協定の定めがある場合には、1週間に1日の休日が確保でき
	る日数)

Number	of	days	for	Number of continuous working days: 6 days
continuou	s lab	our		(For the specified period (while the business is especially busy) it
				shall be the number of days that one rest day in one week is secured
				in case labour-management agreement is concluded.)

One-Week Atypical Adjustable Working Hours System (Article 32-5)

In this system, working hours for every day can be fixed flexibly in a unit of one week under labour -management agreement. This applies to the specified business of retailer, inn, and restaurant with less than 30 employees.

- ♦ The followings are required in order to newly adopt this system:
- (1) To conclude labour-management agreement, and fix the working hours per week to be 40 hours or less and the increased wage to be paid when having a worker work in excess of the fixed working hours
- (2) To submit to the Office Manager of Labour Standards Inspection Office under jurisdiction in a specified form
- ♦ Upper limit of working hours shall be 10 hours per day.

<<< 7. Discretionary Labour System >>>

Discretionary Labour System (Article 38-3, 38-4)

In this system, how the duty is performed and allocation of the working hours are defined in labour-management agreement or decision in labour-management committee. This is due to the nature of duties such as research/development or planning in central management. It needs to be defined in labour-management agreement or in labour-management committee that an employer does not give definite assignment regarding performance of duty or allocation of working hours.

The followings are required when discretionary labour system is applied:

- Conclusion and submission of labour-management agreement, or
- Installation, decision and submission of labour-management committee.

♦ Specialized-Type Discretionary Labour System



This type of system can be introduced only when the following items are stated in the labour-management agreement:

- 1. Types of applicable duties
- 2. Statement that an employer does not give concrete instructions regarding means of accomplishment, allocation of time, etc.
- 3. Deemed working hours
- 4. Effective period
- 5. Measures for securing the worker's health and welfare
- 6. Measures for handling of complaints
- 7. The records containing the measures subscribed in the 5 and 6 above shall be stored for 3 years after the effective period is expired.

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1週間単位の非定型的変形労働時間制(第32条の5)

1 週間単位の非定型的変形労働時間制とは、規模 30 人未満の小売業、旅館、料理・飲食店の事業において、労使協定により、1 週間単位で毎日の労働時間を弾力的に定めることができる制度です。

1週間単位の非定型的変形労働時間制を採用するには、以下が必要です。

- (3) 労使協定を締結することにより、1 週間の労働時間が 40 時間以下になるよう定める、かつ、この時間を超えて労働させた場合には、割増賃金を支払う旨を定めること。
- (4) 労使協定を所定の様式により、所轄の労働基準監督署長に届け出ること
- ◆1日の労働時間の上限は、10時間です。

<<< 7. <u>裁量労働制</u> >>>

裁量労働制 (第38条の3、第38条の4)

裁量労働制とは、研究開発などの業務、あるいは事業の運営に関する事項についての企画、立案などの業務について、その性質上、業務の遂行の方法や時間の配分などに関し、使用者が具体的な指示をしないことを労使協定や労使委員会の決議で定めた場合、当該協定や決議で定めた時間労働したものとみなす制度です。

裁量労働制を採用するには、労使協定の締結・届出、あるいは労使委員会の設置・決議・届出などが必要です。

◆専門業務型裁量労働制



この制度は、労使協定で以下について締結した場合に導入できます。

- 1. 対象業務
- 2. 業務の遂行手段、時間配分の決定などに関し具体的な指示をしないこと
- 3. みなし労働時間
- 4. 有効期間
- 5. 健康・福祉を確保する措置
- 6. 苦情処理に関する措置
- 7. 5及び6に定めた措置に関する記録を有効期間終了後3年間保存すること

♦ Planning-Type Discretionary Labour System

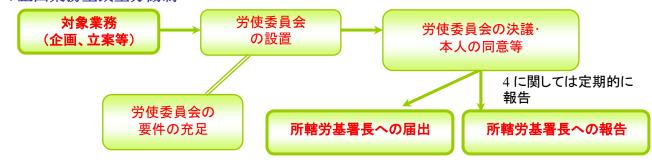


This type of system can be introduced only when the following items are resolved by the committee with approval of four fifths of the members:

- 1. Types of applicable duties
- 2. Scope of workers to be covered
- 3. Deemed working hours
- 4. Measures for ensuring health and welfare
- 5. Measures for handling complaints
- 6. Measures regarding acquisition of consent from workers and prohibition of disadvantageous treatment against those who do not consent
- 7. Effective period of the resolutions
- 8. The records containing the measures subscribed in the items from 4 to 6 above shall be stored for 3 years after the effective period is expired.

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◆企画業務型裁量労働制



この制度は、労使委員会を設置し、以下を委員会の委員の5分の4以上の賛成により決議し、労働基準監督署長に届け出た場合に導入できます。

- 1. 対象業務
 - 2. 対象労働者の範囲
 - 3. みなし労働時間
 - 4. 健康・福祉を確保する措置
 - 5. 苦情処理に関する措置
 - 6. 本人の同意の取得及び不同意者の不利益取扱いの禁止に関する措置
 - 7. 決議の有効期間の定め
- 8. 4から6までに定めた措置に関する記録を有効期間終了後3年間保存すること

<<< 8. Labour Standards for Minors >>>

Minimum Age (Article 56)

An employer shall not employ children until the end of the first 31st of March that occurs on or after the day when they reach the age of 15 years.

Exception: If the Director of Labour Standards Inspection Office permits, it is allowed to employ children of 13 full years of age or older for non-industrial business and those of less than 13 full years of age for business of film or stage production. The working time shall not include the school hours.

Certificates for Minors (Article 57)

An employer shall keep at the workplace a birth certificate which proves the age of a child when employing minors (under 18 full years of age), and a certificate issued by the head of the child's school or written consent from the child's parent or guardian when employing children.

Labor Contract for Minors (Article 58)

The parent or guardian shall not conclude a labour contract in place of minors.

Therefore the labour contract shall be concluded by himself/herself with approval of parent or guardian.

The parent, guardian, or the administrative office may cancel a contract prospectively if they consider it disadvantageous to the minors.

Working Hours and Rest Days for Minors (Article 60)

Variable working hours systems, overtime/day off work agreed by labour-management agreement (Article 36), exceptions of working hours/rest periods (Article 32 and 34) shall not apply to minors under 18 full years of age in principle.

For minors of 15 full years of age or above but under 18 full years of age (but not including the period from the day when they reach 15 full years of age to the first March 31 coming after the said day), the legal working hours shall be 40 hours a week and 7 hours a day both including school hours.

Late-night Labour by Minors (Article 61)

An employer shall not employ minors in principle at late night (from 10:00 p.m. to 5:00 a.m.).

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<<< 8. 年少者の労働基準 >>>

最低年齡(第56条)

児童(満 15 歳に達した日以後の最初の 3 月 31 日までの者)を労働者として使用することは禁止されています。

例外的措置: 非工業的事業では、満 13 歳以上、さらに、映画製作・演劇の事業では満 13 歳未満の児童でも所轄の労働基準監督署長の許可を条件として、例外的に修学時間外に働かせることができます。

年少者の証明(第57条)

年少者(満18歳未満)を使用する場合には年齢証明書を、児童を使用する場合にはさらに学校長の証明書、親権者等の同意書を、事業場に備え付けておかなければなりません。

未成年者の労働契約(第58条)

親権者または後見人が未成年者に代わって労働契約を締結することは禁止されています。

したがって、未成年者の労働契約は、未成年者が親権者または後見人の同意を得て、自ら締結することとなります。

また、未成年者が締結した労働契約がその未成年者に不利であると認められる場合には、親権者、後見人または所轄労働基準監督署長は、その労働契約を将来に向かって解除することができます。

年少者の労働時間・休日(第60条)

年少者(満 18 歳未満の者)については各種変形労働時間制、労使協定による時間外・休日労働、労働時間・休憩の特例は原則として適用されません。

許可を受けて使用する児童(満 15 歳に達した日以後最初の 3 月 31 日を終了していない児童)の法定労働時間は、修学時間を通算して 1 週 40 時間、1 日 7 時間とされています。

年少者の深夜業 (第61条)

年少者を深夜(午後10時~午前5時)に働かせることは、原則として禁止されています。

<<< 9. Labor Standards for Women >>>

Underground Labor for Women (Article 64-2)

An employer shall not have expectant and women in their first year after childbirth who inform the employer of their intention not performing underground duties work underground. And an employer shall not have women of 18 full years of age or above perform underground duties specified by a Ministry of Health, Labour and Welfare ordinance as injurious to women, including hand excavation work.

Limitations on Dangerous and Injurious Work for Expectant and Nursing Mothers (Article 64-3)

An employer shall not employ expectant and post-parturient women in works injurious to pregnancy, childbirth, nursing and the like (such as handling of heavy loads, work in places where harmful gas is generated, and so forth.)

* expectant and post-parturient women: pregnant women and women in their first year after childbirth

Before and After Childbirth (Article 65)

- 1 In the event a woman who is expecting to give birth within 6 weeks (14 weeks for multiple birth) requests rest days, an employer shall not employ such person. In the event a pregnant woman requests, an employer shall transfer her to other light duties.
- 2 An employer shall not employ a woman within 8 weeks after childbirth. However, this shall not prevent an employer from employing a woman after 6 weeks of childbirth who requests to work, in duties that a doctor has recognized would not adversely affect her.
- * "Within 6 weeks" includes the day of giving birth.
- * An employer shall provide a woman with rest days after childbirth even though she does not request.

Working Hours for Expectant and Post Parturient Women (Article 66)

In the event an expectant or nursing mother has requested, an employer shall not have her work in excess of the legal working hours per week or per day. This also applies when variable working hours systems are adopted. In the event an expectant or nursing mother has requested, an employer shall not have her work overtime, on rest days nor at night.

Time for Childcare (Article 67)

When a woman raising an infant under the age of one full year requests time for taking care of the infant, an employer shall allow at least 30 minutes respectively for twice a day, in addition to rest periods.

Measures for Women Who Have a Difficulty to Work in Menstrual Period (Article 68)

When a woman who has a difficulty to work in menstrual period requests leave (half-day, or some hours), the employer shall not employ the women in such period.

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<<< 9. 女性の労働基準 >>>

女性の坑内労働 (第64条の2)

使用者は、妊娠中の女性、及び坑内で行われる業務に従事しない旨を使用者に申し出た産後 1 年を経過しない女性を、坑内で行われる業務に就かせてはならないものとする。また、満 18 歳以上の女性を、坑内で行われる業務のうち、人力により行われる掘削の業務その他の、女性に有害な業務として厚生労働省令で定めるものに就かせてはならないものとする。

妊産婦の就業制限業務 (第64条の3)

妊産婦を妊娠、出産、哺育などに有害な業務(重量物の取扱いや有害ガスを発散する場所における業務 その他)に就かせてはなりません。

* 妊産婦: 妊娠中及び産後1年を経過しない女性をいいます。

産前産後(第65条)

- 16週間(多胎妊娠の場合は14週間)以内に出産予定*1の女性が休業を請求した場合には、その者を就業させてはいけません。また、妊娠中の女性が請求した場合には、他の軽易な作業に転換させなければなりません。
- 2 産後8週間*2を経過しない女性を就業させてはいけません。ただし、産後6週間を経た女性が請求した場合には、医師が支障がないと認めた業務に就業させることは差し支えありません。
- *1 出産当日は産前6週間に含まれます。
- *2 産後休業は女性労働者からの請求がなくても与えなければなりません。

妊産婦の労働時間(第66条)

使用者は、変形労働時間制がとられる場合にも、妊産婦が請求した場合、1日及び1週間の法定労働時間を超えて労働させることができません。また、妊産婦が請求した場合、時間外・休日労働及び深夜業をさせてはなりません。

育児時間(第67条)

生後満1年に達しない生児を育てる女性から請求があった場合には、休憩時間のほかに、1日2回それぞれ少なくとも30分の生児を育てるための時間を与えなければなりません。

生理日の就業が著しく困難な女性に対する措置(第68条)

生理日の就業が著しく困難な女性が休暇(半日、時間単位でも足ります)を請求したときは、その者を就業させてはなりません。

<<< 10. Rules of Employment >>>

Responsibility for Drawing-up, Submission and Revision (Article 89, 90 and 92)

An employer who continuously employs 10 or more workers shall draw up rules of employment and submit to the Office Manager of Labor Standards Inspection Office, along with a written statement by a labour union organized by the majority of employees, or if not, by a representative of the majority.

1. Items required to be stated

The following items must be stated in the rules of employment.

- ① Matters pertaining to the times at which work begins and at which work ends, rest periods, days off, leaves, and the change in shifts when workers are employed in two or more shifts
- ② Matters pertaining to the methods for determination, computation and payment of wages (excluding extraordinary wages and the like; hereinafter in this item the same qualification shall apply); the dates for closing accounts for wages and for payment of wages; and increases in wages
- ③ Matters pertaining to retirement (including the reasons for dismissal)

2. Other items to be stated when if fixed

The following items must be stated if they are stipulated in the rules of employment.

- Matters pertaining to ① retirement allowances
 - ② extraordinary wages (bonus) and minimum wage amount
 - ③ the cost of food and supplies for work
 - 4 to safety and health
 - (5) to vocational training
 - ⑥ accident compensation and/or support for injury or illness outside the course of duty
 - ⑦ commendations and/or sanctions
- Matters applicable to all workers at the workplace

Restrictions on Sanction Provisions (Article 91)

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

The amount of decrease for a single occasion

→ Not exceed 50 percent of the daily average wage

The total amount of decrease:

→ Not exceed 10 percent of the total wages for a single pay period

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<<< 10. 就業規則その他 >>>

就業規則の作成・届出・変更の義務(第89条、第90条、第92条)

常時 10 人以上の労働者を使用している事業場では、就業規則を作成し、事業場に労働者の過半数で組織する労働組合がある場合はその労働組合、過半数で組織する労働組合がない場合は労働者の過半数を代表する者の意見書を添えて、所轄労働基準監督署長に届け出なければなりません。

また、就業規則を変更した場合も同様です。

*就業規則は、労働基準法などの関係法令、または労働協約に反してはいけません。

- 1. 必ず記載しなければならない事項
- ① 始業及び終業の時刻、休憩時間、休日、休暇並びに交替制の場合には就業時転換に関する事項
- ② 賃金の決定、計算及び支払の方法、賃金の締切り及び支払いの時期並びに昇給に関する事項
- ③ 退職に関する事項(解雇の事由を含む)
- 3. 定めをする場合は記載しなければならない事項
- ① 退職手当に関する事項
- ② 臨時の賃金(賞与)・最低賃金額に関する事項
- ③ 食費・作業用品などの負担に関する事項
- ④ 安全衛生に関する事項
- ⑤ 職業訓練に関する事項
- ⑥ 災害補償、業務外の傷病扶助に関する事項
- ⑦ 表彰、制裁に関する事項
- ⑧ その他全労働者に適用される事項

制裁規定の制限(第91条)

就業規則で労働者に対して減給の制裁を定める場合においては、その減給は、1回の額が平均賃金の1日分の半額を超え、総額が一賃金支払期における賃金総額の10分の1を超えてはいけません。

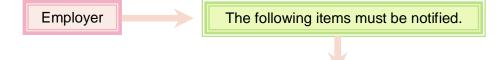
減給の1回の額: 平均賃金の1日分の半額を超えてはいけません。

減給の総額:一賃金支払期の賃金総額の10分の1を超えてはいけません。

^{*}Rules of employment shall not conflict with any laws, ordinances and any collective agreement.

Dissemination of Laws and Regulations, etc.(Article 106)

An employer shall make known to workers the gist of this Laws and ordinances, rules of employment, labour-management agreements and the like by displaying, posting or delivering in writing.



- (1) Gist of Labour Standards Law and ordinances issued under this Law
- (2) Rules of employment
- (3) Labour-management agreements:
 - ① Workers' savings (Article 18)
 - ② Partial deduction from wages (Article 24)
 - ③ One-month variable working hours system (Article 32-2)
 - 4 Flextime System (Article 32-3)
 - 5 One-year variable working hours system (Article 32-4)
 - 6 One-week atypical adjustable working hours system (Article 32-5)
 - ② Exclusion from application of provisions on rest periods (Article 34)
 - Overtime work and work on rest days (Article 36)
 - 9 Duties outside of the workplace (Article 38-2)
 - Specialized Type Discretionary Work System (Article 38-3)
 - ① Preplanned grant of annual paid leave (Article 39)
 - The system that provides for the payment for the period (of leave with pay) of a sum equivalent to the daily amount of standard remuneration provided for under the Health Insurance Law (Article 39)
- (4) The content of the decision made by labor-management committee pertaining to Planning Type Discretionary Work System (Article 38-4)

The employer shall make known to workers in either means of

- ① displaying or posting Laws and Ordinances and others at all times in a conspicuous location or locations in a workplace,
- 2 delivering them in writing to workers, or
- ③ recording them on magnetic tapes, magnetic discs, or equivalent and providing an equipment in each workplace with which the workers may check the content of the record at anytime.

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法令等の周知(第106条)

法令の要旨、就業規則、各種労使協定などを掲示、備付け、書面の交付などによって労働者に周知しなければなりません。

使用者
次の事項を労働者に周知する

- (5) 労働基準法及び同法による命令等の要旨
- (6) 就業規則
- (7) 労使協定
 - ① 貯蓄金管理に関する協定(第18条)
 - ② 購買代金などの賃金控除に関する協定(第24条)
 - ③ 1か月単位の変形労働時間制に関する協定(第32条の2)
 - ④ フレックスタイム制に関する協定(第32条の3)
 - ⑤ 1年単位の変形労働時間制に関する協定(第32条の4)
 - ⑥ 1週間単位の非定型的変形労働時間制に関する協定(第32条の5)
 - ⑦ 一斉休憩の適用除外に関する協定(第34条)
 - ⑧ 時間外労働・休日労働に関する協定(第36条)
 - ⑨ 事業場外労働に関する協定(第38条の2)
 - ⑩ 専門業務型裁量労働に関する協定(第38条の3)
 - ⑪ 年次有給休暇の計画的付与に関する協定(第39条)
 - ② 年次有給休暇取得日の賃金を健康保険の標準報酬日額で支払う制度に関する協定(第39条)
- (8) 企画業務型裁量労働制にかかる労使委員会の決議内容(第38条の4)

次のいずれかの方法で周知しなければならない。

- ① 常時各作業場の見やすい場所に掲示・備え付ける
- ② 書面で交付する
- ③ 磁気テープ・磁気ディスクその他これらに準ずる物に記録し、かつ、各作業場に 労働者が当該記録の内容を常時確認できる機器を設置する

Drawing-up and Record Preservation of Roster of Workers and Wage Ledger (Article 107-109)

The employer shall prepare a roster of workers for each workplace with respect to each worker (excluding day laborers) and make a correction without delay in the event of a change.

The employer shall prepare a wage ledger for each workplace and shall enter the facts without delay each time wage payments are made.

The employer shall keep the important documents concerning labour relations including roster of workers and wage ledgers for a period of 3 years.

Items to Be Entered into the Workers' Roster

- ① Worker's name
- ② Date of birth
- ③ Personal history
- 4 Sex
- (5) Present address
- 5 Job engaged in
- 7 Date of employment
- Date and cause of retirement (In the event that the cause of the retirement is dismissal, the reason shall be included.)
- 9 Date and cause of death

- ① The facts upon which wage calculations are based
- ② The amount of wages
- ③ Worker's name
- (4) Sex
- (5) Wage calculation period
- 6 Working days
- 7 Working hours
- ® The number of hours for overtime work, rest day work or night work
- Respective amounts of basic wages, allowances, and other wages
- ① The amount in case that partial deduction from wage is made under the provision of labour-management agreements

Preservation of Records for Three-year and the Starting Point

Roster or workers	Date of the death, retirement, or dismissal of a worker
Wage ledger	Date when the last entry has been made
Document concerning the employment	Date of the retirement or death of a worker
or retirement of a worker	
Documents concerning accident	Date when accident compensation has been completed
compensation	
Other important documents concerning	Date of completion
employment relations	

Labour Standards Law --- The Essentials

労働者名簿及び賃金台帳の調製と記録の保存(第107条~第109条)

労働者名簿は、各事業場ごとに、各労働者(日々雇入れられる者を除く)について調製しなければなりません。また、記載事項に変更があった場合は、遅滞なく訂正しなければなりません。

賃金台帳についても、各事業場ごとに調製し、賃金の支払いの都度、遅滞なく、各労働者ごとに記入しなければなりません。

なお、労働者名簿、賃金台帳その他労働関係に関する重要な書類は、3年間の保存義務があります。いずれの書類も、必要事項が記載されていればどんな様式でも構わないことになっています。

- ① 労働者の氏名
- ② 生年月日
- ③ 履歴
- ④ 性別
- ⑤ 住所
- ⑥ 従事する業務の種類
- ⑦ 雇い入れの年月日
- ⑧ 退職年月日及びその事由(解雇の場合はその理由)
- ⑨ 死亡の年月日及びその原因

- ① 賃金計算の基礎となる事項
- ② 賃金の額
- ③ 氏名
- ④ 性別
- ⑤ 賃金計算期間
- ⑥ 労働日数
- ⑦ 労働時間数
- ⑧ 時間外労働、休日労働及び深夜労働の労働時間数
- ⑨ 基本給、手当その他の賃金の種類ごとにその金額
- ⑩ 労使協定により賃金の一部を控除した場合はその金額

労働者名簿	労働者の死亡、退職または解雇の日
賃金台帳	最後の記入をした日
雇入れ、退職に関する書類	労働者の退職または死亡の日
災害補償に関する書類	災害補償を終わった日
その他労働関係の重要な書類	その完結の日

Amendment of Labour Standard Law ~ enforced from April 1, 2010~

The rate of extra wage for overtime work is raised (middle and small-sized enterprises(MSEs) are exempted from this amendment in the meantime

For the overtime work in excess of 60 hours per month

The rate of extra wage shall be more than 50 % of regular wage

(Article 37.1&138 of the amended law)

o The rate of extra wage for overtime work in excess of 60 hours per month is raised from 25% to 50% of regular wage.

(*1)

• This is NOT binding to MSEs meanwhile. (*2)

- (*1) This rate of extra wage is applied only to the overtime work. The rate of extra wage for holiday work (35%) and for night time work (25%) remains unchanged.
- (*2) Possibility of application for MSEs is to be reviewed three years later from the date of enforcement.

*MSEs exempted from this amendment are defined

by either:

① Capital amount

Retailer 50,000,000 yen or less Service section 50,000,000 yen or less Wholesaler 100,000,000 yen or less

300,000,000 yen or less

Or

2 Number of workers employed on regular basis

Retailer 50 workers or less Service section 100 workers or less Wholesaler 100 workers or less 300 workers or less Others

(*)

Others

The above definition is applied to legal entity (not to

each workplace)

The extra wage for overtime work in excess of 60 hours can be replaced with (Article 37.3 of the amended law) paid alternate leave.

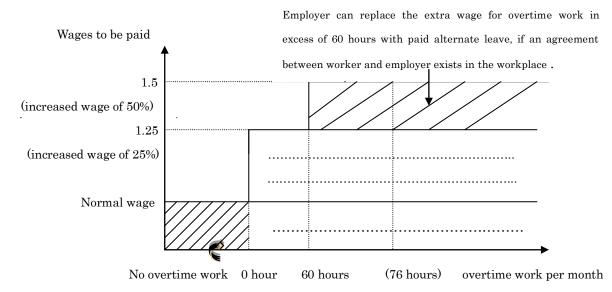
o Employer can replace the extra wage for overtime work in excess of 60 hours with paid alternate leave, if an agreement between

worker and employer exists in the workplace.

o Even if the worker takes this paid alternate leave, the employer shall pay the wage for the other overtime work with the going rate of extra wage of 25%.

(Fig.)

Mechanism of replacement of extra wage with paid alternate leave



(Example)

In case the overtime work is 76 hours per month,

- →Instead of the payment in wage with increased rate of 25 % (50%-25%) for 16 hours in excess of 60 hours per month, giving the paid alternate leave is available.
- \rightarrow 16 hours X 0.25= 4 hours are given as paid alternate leave (Wage calculated with 76 hours X $1.25\ \mathrm{shall}$ be paid.)



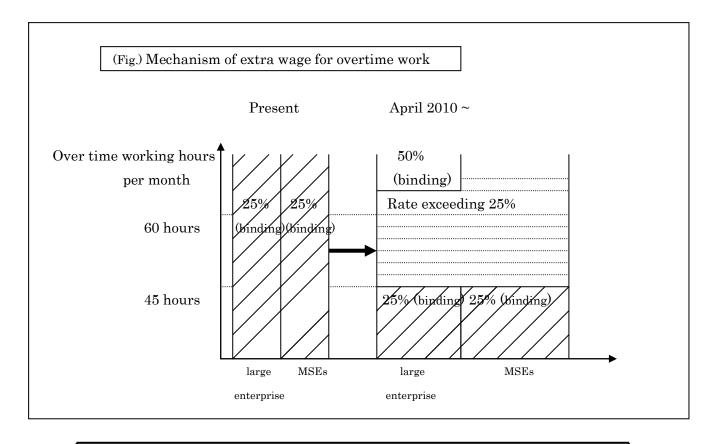
2 All employers and workers shall endeavor to raise extra wage. (This is applied to all the scales of company.)

For the overtime work in excess of 45 hours per month, the limit of overtime work set by administrative ordinance, the rate of extra wage is recommended to be fixed at 25% or more

o If the overtime work is expected to exceed 45 hours per month, an agreement with special clause shall be made in advance between worker and employer concerned.

In case the agreement with special clause is made;

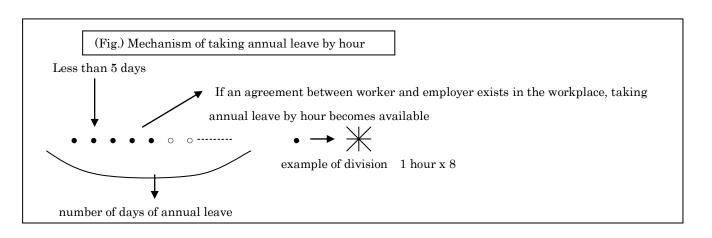
- 1. The rate of the extra wage for overtime work in excess of 45 hours per month shall be specified in the agreement.
- 2. The specified rate is sought to be higher than 25% of binding rate of extra wage.
- Effort to reduce overtime work less than 45 hours per month is pre-conditioned.



3 The annual leave is available by hour.

(This is applied to all the scales of the company)

- The present law stipulates annual leave shall be taken by day but it becomes available by hour, with limit of 5 days, if an agreement between worker and employer exists.(* 1)
- Decision to take the leave by day or by hour shall be made on worker's free will who takes the leave.(*2)
- (*1) part-time worker, whose working hour is shorter than that of regular worker, can also take annual leave by hour under an agreement thereon with worker and employer concerned.
- (* 2) for example, if a worker demands taking annual leave by day, his/her employer cannot deal with the request as taking the leave by hour.



This translation is unofficial and is to be used as reference material. We shall not be responsible for the accuracy, reliability or for any consequence resulting from use of the information.