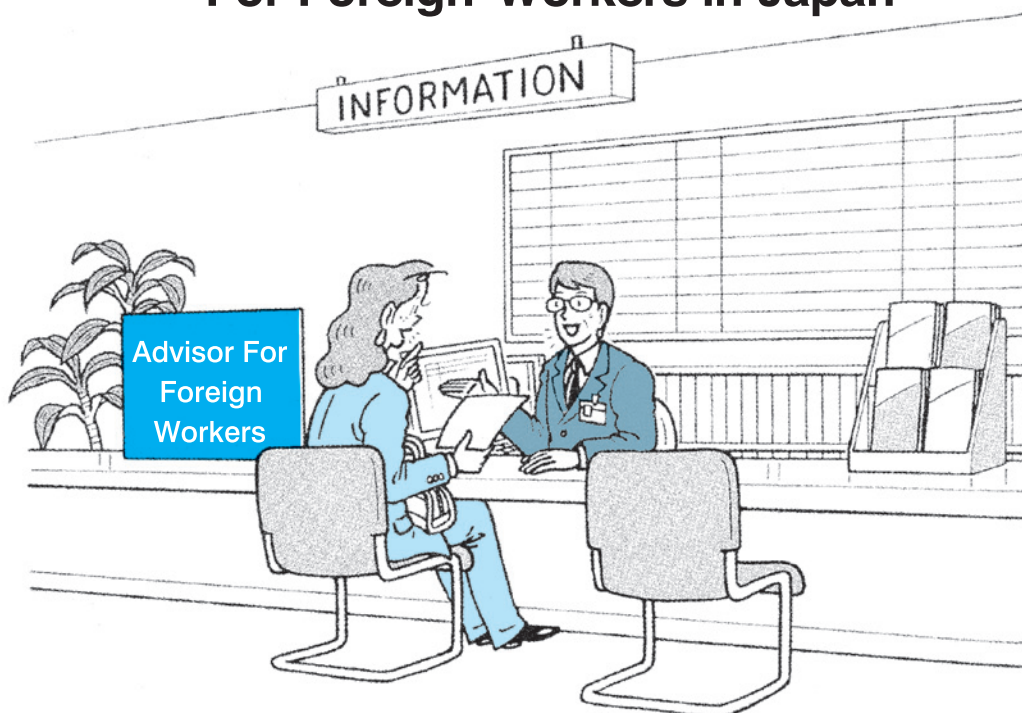


# Are Your Working Conditions Fair?

## For Foreign Workers in Japan



The laws and regulations related to labour standards, such as the Labour Standards Law, the Employment Contracts Act, the Minimum Wages Law, the Industrial Safety and Health Law, and the Workmen's Accident Compensation Insurance Law, apply to foreign workers in Japan, too.

In any of the following cases, please consult one of the "Advisors for Foreign Workers" who are stationed in the Inspection Division of Labour Standards Departments at the major Labour Bureaus throughout Japan, or a Labour Standards Inspection Office.

For instance:

- \* You are not paid your wages.
- \* You are not paid an overtime allowance.
- \* You are dismissed while receiving medical treatment for injury caused by work.
- \* You are dismissed suddenly and have not been paid a dismissal allowance.
- \* You have suffered an accident at work but are not compensated for your medical fees or your days off.
- \* Your wages, working hours and other working conditions are not specified when you sign a labour contact.
- \* There is the risk of accidents at work because the safety and hygiene of workers are not protected adequately.
- \* Other similar problems

The Advisors for Foreign Workers will accept inquiries and consultations about labour conditions in English, and in other languages depending upon the office.

## In Japan, the following laws and regulations related to labour standards apply (extract):

### 1 Labour Standards Law

#### (1) Equal Treatment (Article 3)

An employer shall not engage in discriminatory treatment of workers by reason of nationality. The same prohibition also applies to discriminatory treatment on the grounds that the working conditions in the foreign worker's home country are inferior to those in Japan.

#### (2) Forced labour (Article 5)

It is prohibited to force workers to work against their will by means of unfair restraint on their mental or physical freedom.

#### (3) Intermediate exploitation (Article 6)

Unless permitted by the Act, no person shall obtain profit by intervening in the employment of others.

#### (4) Contracts violating the Labour Standards Act (Article 13)

A labour contract which provides for working conditions not meeting the standards of the Labour Standards Act shall be invalid with respect to such portions. In such a case, the invalid portions shall be governed by the standards as specified in said Act.

#### (5) Period of contract (Article 14)

Labour contracts with a definite period shall not be concluded for a period exceeding three years in principle, with the following exceptions:

Labour contracts concluded with workers having expert knowledge, skills or experience	.....	Maximum of five years
Labour contracts concluded with workers aged 60 or older	.....	Maximum of five years
Labour contracts with a definite period regarding the required completion of certain undertakings (e.g., construction work with a definite period)	.....	Such necessary period

#### (6) Clear Statement of Working Conditions (Article 15)

In concluding a labour contract, the employer shall clearly indicate the following matters by issuing a notice of working conditions to the workers:

· Contents of working conditions that should be clearly indicated in writing:

- ① Period of the labour contract
- ② The standard in case of renewing a labour contract with a definite period (labour contract for a defined period)
- ③ Workplace and work in which workers are to be engaged
- ④ Working hours (e.g., opening and closing times, break times, leave)
- ⑤ Wages (amount of wages, method of payment, closing day for wage calculation and day of payment)
- ⑥ Matters related to retirement (e.g., whether age limit applies, grounds for dismissal)

· Contents of other working conditions that should be clearly indicated:

- ① Matters concerning increase in wages
- ② Special wages, expenses for food, dormitory, etc. to be borne by the workers, matters concerning compensation for industrial accidents, vocational training, commendation and sanction, administrative leave, etc., matters concerning travel expenses ..... In case of provisions concerning these matters

#### (7) 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.

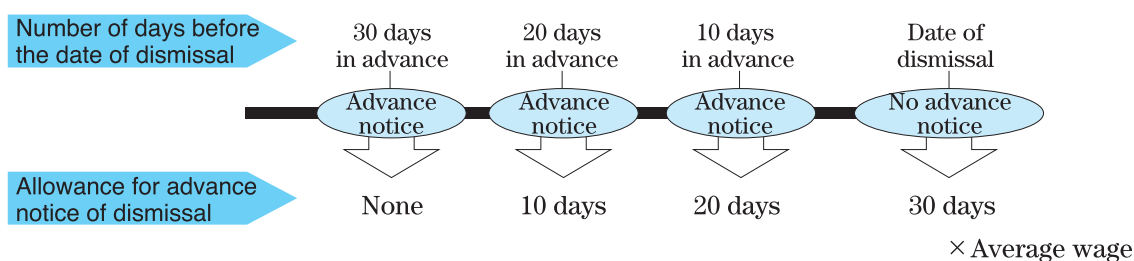
(It is prohibited to make a contract that fixes in advance an amount of compensation for damages. However, this does not prohibit the demand for any damage actually incurred due to a reason attributable to a worker.)

(8) Restrictions on Dismissal of Workers (Article 19)

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

(9) Notice of Dismissal (Articles 20 and 21)

In the event that an employer wishes to dismiss a worker, the employer shall provide in principle at least 30 days advance notice. However, the number of days of notice may be reduced in the event the employer pays the average wage for each day by which the period is reduced. An employer who does not give 30 days advance notice shall pay the average wages for a period of not less than 30 days.



(10) Certificate on Retirement, etc. (Article 22)

When a worker, upon leaving employment, requests a certificate stating the following matters, the employer shall deliver one without delay. Furthermore, a worker who has received prior notice of his or her dismissal may request a certificate stating the reason for dismissal. In this case, the employer shall issue said certificate without delay, even if the worker's request is made prior to dismissal. However, the employer shall not include in the certificate any matters that the worker does not request.

- 1) Period of employment, 2) Kind of occupation, 3) Position in the enterprise, 4) Wages, and
- 5) Cause of retirement (including the reasons in the event that the cause of retirement is dismissal)

(11) Return of money and goods (Article 23)

Upon a worker's leaving of employment, the employer shall pay unpaid wages and other due amounts within 7 days of his or her request for payment.

(12) Payment of wages (Article 24)

Wages must be paid 1) in cash, 2) directly to the workers, 3) in full, 4) at least once a month, and 5) on a definite date.

(13) 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 the worker an allowance for absence from work (60% of the worker's average wage).

If a worker dispatch contract is terminated before its expiration, the contract between the dispatched worker and the dispatching entity shall continue until expiration of the period of employment, and the dispatching entity shall pay the dispatched worker his/her wage.

In case early termination of a worker dispatch contract has caused the worker to be absent from work, such absence is generally considered to fall under absence from work for reasons attributable to the employer; therefore, the employer shall pay the worker an allowance for absence from work.

(14) Working hours (Articles 32, 34 and 35) (These provisions do not apply to agriculture, the livestock industry, and fishery.)

In principle, an employer shall not have a worker work for more than 40 hours per week or more than eight hours per day.

An employer shall provide workers with 45 minutes of rest periods during more than six working hours, and one hour during more than eight working hours.

An employer shall provide workers with at least one day off per week or four days off or more during a four-week period.

In case an employer is to have a worker work in excess of the statutory working hours or on a statutory day off, the employer must enter into a written agreement concerning overtime work and work on days off, and report the agreement to the relevant Labour Standards Office.

(15) Increased wages for overtime work, work on days off, and night work (Article 37)

In case an employer requires a worker to work overtime, at night (10:00 p.m. to 5:00 a.m.) or on a statutory day off, the employer must pay the worker an increased wage in accordance with the following increase rate:

Increased wage for overtime work ..... Rate of at least 25%

Increased wage for night work ..... Rate of at least 25%

Increased wage for work on a statutory day off ..... Rate of at least 35%

Due to a revision of the Labour Standards Act, the statutory rate of increased wages for work exceeding 60 hours per month has been changed to 50%. However, for medium and small enterprises, said change in the statutory rate of increased wages is granted a reprieve for the time being.

(16) Annual Paid Leave (Article 39)

An employer shall grant annual paid leave to workers who have been employed continuously for six months calculated from the day of their being hired and who have reported for work on at least 80 percent of the total working days.

Prescribed working time per week	Prescribed number of working days per week	Prescribed number of working days per year	6 months	1 and a half years	2 and a half years	3 and a half years	4 and a half years	5 and a half years	6 and a half years or more
30 hours or more			10 days	11 days	12 days	14 days	16 days	18 days	20 days
Less than 30 hours	5 days or more	217 days or more							
	4 days	169 to 216 days	7 days	8 days	9 days	10 days	12 days	13 days	15 days
	3 days	121 to 168 days	5 days	6 days	6 days	8 days	9 days	10 days	11 days
	2 days	73 to 120 days	3 days	4 days	4 days	5 days	6 days	6 days	7 days
	1 day	48 to 72 days	1 day	2 days	2 days	2 days	3 days	3 days	3 days

In case the granting of annual paid leave in the requested period would interfere with normal operation of the enterprise, the employer shall have the right to change the dates of leave.

By entering into a labor-management agreement, workers may acquire up to five days of annual paid leave by hours.

Annual paid leave shall lapse when two years has passed from the time when the right for it arose.

An employer shall not treat in any disadvantageous manner a worker who has acquired annual paid leave.

(17) Rules of employment (Article 89)

An employer who continuously employs 10 or more workers shall draw up rules of employment (regulations pertaining to working time, wages, retirement, etc.) and shall report the document to the relevant government agency.

An employer shall make public the rules of employment to workers by posting the same at an appropriate place or otherwise so that the documents will be accessible by the workers.

(18) Restrictions on Sanction Provisions (Article 91)

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

## 2 Employment Contracts Act

- (1) Dismissal in case of an employment contract without any provision for definite term (Article 16)  
Any case of dismissal lacking objectively reasonable grounds and which is deemed inappropriate based on social conventions shall be considered abusing a right, and be null and void.
- (2) Dismissal in case of a terminable at-will employment contract (employment contract with provision for definite term) (Paragraph 1 of Article 17)  
An employer shall not dismiss workers during the term of contract without any unavoidable reason.  
The validity of dismissal shall be judged more closely than in the case of a labour contract without a definite period.

If a dispatch of worker contract has been terminated before its expiration, it shall not immediately constitute an unavoidable reason to dismiss the relevant dispatched worker.

- (3) Converting to a labour contract without a definite period (Article 18)  
In case a labour contract for a defined period has been repeatedly renewed with the same employer for a period exceeding five years, such labour contract shall be converted to a labour contract without a definite period upon the request of the worker concerned.

## 3 Minimum Wages Law

- (1) Types of minimum wage  
There are two types of minimum wage as follows:
  - ① Minimum wage by region (Minimum wage separately prescribed for each prefecture)
  - ② Specified minimum wage (by industry) (Minimum wage prescribed for core workers in each category of industry)
- (2) Effect of minimum wage (Article 4)  
An employer shall pay workers wages an amount no less than the minimum wage (Paragraph 1).  
Even if a labour contract is entered into between an employer and its employee specifying a commitment to pay a wage in an amount less than the minimum wage, such committed amount of wage shall be invalid and a labour contract providing for a wage in the same amount as the minimum wage shall be deemed to have been entered into between both parties (Paragraph 2).  
In addition, in case both the minimum wage by region and specified minimum wage (by industry) apply simultaneously, a wage in the amount equivalent to the higher of the two minimum wages shall be paid (Article 6).

In order to check whether a wage being actually paid is the same or higher than the prescribed minimum wage, the amount of wage concerned shall be compared with the applicable minimum wage by using the following method:

- In case of an hourly wage:  $\text{Hourly wage} \geq \text{Minimum wage (per hour)}$
- In case of a daily wage:  
 $\text{Daily wage} \div \text{Prescribed working hours per day} \geq \text{Minimum wage (per hour)}$   
(In case of specified minimum wage (by industry) prescribing an amount per day:  
 $\text{Daily wage} \geq \text{Minimum wage (per day)}$  )
- In case of a monthly wage:  
 $\text{Monthly wage} \div \text{Prescribed working hours per month} \geq \text{Minimum wage (per hour)}$   
(In case the prescribed working hours differ depending on the month:  
(Amount of monthly wage  $\times$  12 months)  $\div$  Prescribed working hours per year  
 $\geq$  Minimum wage (per hour) )

- (3) The minimum wages by region and specified minimum wage (by industry) shall apply to dispatched workers.

## 4 Industrial Safety and Health Law

- (1) An employer shall take measures provided for by law such as ensuring the functioning of safety devices, wearing of protective equipment, and provision of instructions on adequate work procedures, in order to protect workers from danger or damage to health.

Furnishing covers, fences, etc. at the openings of places for work at a height  
 Furnishing press/wood working machines with appropriate safety apparatus and checking said machines and apparatus

- (2) 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.
- (3) 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.

Works prescribed by law . . . . .  
 Operation of cranes (with lifting load of five tons or more)  
 Operation of mobile cranes (with lifting load of one ton or more)  
 Slings operation (pertaining to a crane, etc. with lifting load of one ton or more)  
 Operation of cargo handling machines such as a forklift (with maximum load of one ton or more)  
 Gas welding, operating vehicle-type construction machines (with base machinery mass of three tons or more), etc.

- (4) An employer shall, upon employing new workers or for each period of time as provided for by law, arrange for the workers to undergo a medical examination conducted by a physician regarding the items prescribed by law.
  - General medical examination : A medical examination of workers shall be implemented at the time of employment and on regular occasions (once a year\*), etc.
    - \* For workers engaged in night work, etc., at the time of reassignment and once every six months.
  - Special medical examination : Medical examination regarding special matters of workers engaged in hazardous work\* shall be implemented at the time of employment, reassignment and on regular occasions.
    - \* Workers who have been engaged in work for handling asbestos, etc. who are currently employed shall also be subject to this examination.
- (5) For long-time workers, an employer must take necessary measures such as face-to-face guidance by a medical doctor, etc.
  - In case the total length of overtime work and work on days off by a worker exceeds 100 hours per month and the worker requests . . . . . Obligation
  - In case the total length of overtime work and work on days off by a worker exceeds 80 hours per month and the worker requests . . . . . Obligation to endeavor
  - In case the situation falls under the standard prescribed by the workplace . . . . . Obligation to endeavor
- (6) Workers shall abide by the necessary matters in accordance with the measures taken by the employer.

**5 Workmen’s Accident Compensation Insurance Law**

- (1) Under the scheme of compensation insurance for industrial accidents, if a worker is injured or dies as a result of a work injury or commuting injury, the following benefit shall be given based on the request by the injured worker or his/her bereaved family.
  - In case medical treatment is necessary, expenses for recovery or medical treatment shall be paid free of charge . . . . . Medical treatment (compensation) benefit
  - In case the worker cannot receive wages due to medical treatment, 80% of the basic benefit amount per day for each day from the fourth day of medical treatment . . . . . Absence from work (compensation) benefit
  - If, after recovery from injury, any disability of a certain degree remains, a pension or lump sum shall be paid depending on the degree of disability . . . . . Disability (compensation) benefit
  - If the worker dies, a pension or lump sum in accordance with the number of bereaved family members, etc. shall be paid . . . . . Bereaved family (compensation) benefit, etc.
- (2) “Work injury” refers to an injury suffered by a worker, etc. due to a job-related reason.
- (3) “Commuting injury” refers to a worker’s an injury suffered by a worker while commuting to work.

“Commuting” refers to the following transfers made by the worker in connection with commuting to work via a reasonable route and by reasonable method:

- Transfers between the residence and workplace
- Transfers from a workplace to another workplace
- Transfers between the residence at a place of temporary dispatch without family and the worker’s home residence

## Q&A

1

(Question) An hourly wage of ¥600, which is less than the minimum wage, is being paid. Can I demand the difference between the minimum wage and actual wage?

(Answer) Payment of wages less than the minimum wages is prohibited.

If an agreement has been entered into between a worker and employer for working at a wage less than the minimum wage based on mutual consent, said agreement is legally invalid and deemed to have provided for a wage equivalent to the minimum wage. Therefore, you can demand the difference between the minimum wage and actual wage.

(See item 3 on page 5.)

2

(Question) I work eight hours per day from Monday to Friday for an hourly wage of ¥800. Although I sometimes work more than eight hours per day, the hourly wage paid remains at ¥800. Is there any problem?

(Answer) It is necessary to pay an increased wage for working hours exceeding eight hours per day. Since overtime work must be paid at a rate of 125% or more of the wage for normal work, in case of an hourly wage of ¥800 for normal work, ¥1,000 ( $¥800 \times 125\%$ ) or more must be paid per overtime hour.

(See (15) on page 4.)

3

(Question) I had been working under a one-year work agreement, but during the sixth month of that period, I was suddenly notified of dismissal by the employer. Should any compensation be paid based on the Labour Standards Act?

(Answer) According to the Labour Standards Act, the employer must notify the employee of intended dismissal at least 30 days in advance.

In case a worker is dismissed with immediate effect without advance notice, an allowance for advance notice of dismissal must be paid in the amount equal to the worker’s average wage for 30 days.

Further, in case of a labour contract with a definite period (labour contract providing for a period of employment), an employer may not dismiss a worker before expiration of the contract period unless the employer has an unavoidable reason.

(See (8) on page 3 and item 2 (2) on page 5.)

4

(Question) I was dismissed during a period when I was absent from work to receive medical treatment for an injury I suffered at the factory.

(Answer) According to the Labour Standards Act, it is prohibited to dismiss a worker during a period of absence from work due to a work injury and for 30 days thereafter.

(See (8) on page 3.)

5

(Question) Do I have to undergo a medical examination?

(Answer) The Industrial Safety and Health Act prescribes that an employer must have workers undergo medical examinations.

Workers must therefore undergo medical examinations as prescribed by law.

(See (4) on page 6.)

6

(Question) I cannot work due to an injury suffered during the course of work. The company is paying the expenses for medical treatment, but I am receiving no wage or compensation for the period I am absent from work.

(Answer) The compensation insurance for industrial accidents applies to all workers including foreign workers.

The compensation insurance for industrial accidents allows a worker who cannot receive wages due to medical treatment for work injury/disease or commuting injury/disease to receive an absence from work (compensation) benefit.

In such cases, seek immediate consultation at a Labour Standards Inspection Office.

(See item 5 on page 6.)

## Telephone Consultation Service for Foreign Workers

The Ministry of Health, Labour and Welfare will launch a “telephone consultation service for foreign workers” on June 1, 2015, to help it adequately respond to requests for consultation from foreign workers. It will be available in five languages (English, Chinese, Portuguese, Spanish, and Tagalog).

The service will address problems with respect to work conditions by explaining laws and making referrals to concerned organizations.

Language	Days available*1	Hours	Telephone No.*2
English	Mon to Fri	10:00 a.m. to 3:00 p.m. (Closed between noon and 1:00 p.m.)	0570-001701
Chinese			0570-001702
Portuguese			0570-001703
Spanish	Tue, Thu, & Fri		0570-001704
Tagalog	Tue & Wed		0570-001705

\*1: Excluding public holidays and December 28 to January 3

\*2: Callers will be responsible for applicable telephone charges.

## Guide to Labour Bureaus with a Foreign Workers Consultation Service (Advisor for Foreign Workers)

- Advisor for Foreign Workers are stationed within the Inspection Divisions of Labour Standards Departments at the major Labour Bureaus and the Labour Standards Inspection Offices as follows and offer consultations concerning working conditions in English and other languages. For details of the dates, etc. that consultation are held, please contact the respective bureaus and offices.
- Labour Standards Inspection Offices that do not have a Foreign Workers Consultation Service (Advisor for Foreign Workers) can also answer your questions concerning working conditions in Japanese. If you do not speak Japanese, please ask someone who can interpret to accompany you whenever you visit one of these offices.

Prefecture	Office	〒	Address	Tel
Hokkaido	Hokkaido Labour Bureau, Inspection Division	060-8566	Sapporo Joint Government Office Building No. 1,1-1, Kita 8-jo Nishi 2-chome, Kita-ku, Sapporo-shi	011-709-2311
Ibaraki	Ibaraki Labour Bureau, Inspection Division	310-8511	1-8-31 Miyamachi, Mito-shi	029-224-6214
Tochigi	Tochigi Labour Bureau, Inspection Division	320-0845	Utsunomiya Regional Joint Government Office Building No. 2, 1-4 Akebono-cho, Utsunomiya-shi	028-634-9115
Saitama	Saitama Labour Bureau, Inspection Division	330-6016	Land Axis Tower 15F, 11-2 Sintoshin, Chuo-ku, Saitama-shi	048-600-6204
Chiba	Chiba Labour Bureau, Inspection Division	260-8612	Chiba Regional Joint Government Office Building No. 2, 4-11-1, Chuo, Chuo-ku, Chiba-shi	043-221-2304
Tokyo	Tokyo Labour Bureau, Inspection Division	102-8306	Kudan Joint Government Office Building No.3, 1-2-1 Kudan Minami, Chiyoda-ku, Tokyo	03-3512-1612
Kanagawa	Kanagawa Labour Bureau, Inspection Division	231-8434	Yokohama Joint Government Office Building No. 2, 5-57, Kita-Nakadori, Naka-ku, Yokohama-shi	045-211-7351
Shizuoka	Shizuoka Labour Bureau, Inspection Division	420-8639	Shizuoka Regional Joint Government Office Building, 9-50 Ote-machi, Aoi-ku, Shizuoka-shi	054-254-6352
Aichi	Aichi Labour Bureau, Inspection Division	460-8507	Nagoya Joint Government Office Building No. 2, 2-5-1 Sannomaru, Naka-ku, Nagoya-shi	052-972-0253
Kyoto	Kyoto Labour Bureau, Inspection Division	604-0846	451 Kinbuki-cho, Ryogaemachi-Dori Oike-agaru Nakagyo-ku, Kyoto-shi	075-241-3214
Osaka	Osaka Labour Bureau, Inspection Division	540-8527	Osaka Joint Government Office Building No. 2, 4-1-67, Otemae, Chuo-ku, Osaka	06-6949-6490
Okayama	Okayama Labour Bureau, Inspection Division	700-8611	Okayama Joint Government Office Building No.2, 1-4-1, Shimoishii, Kita-ku, Okayama-shi	086-225-2015
Fukuoka	Fukuoka Labour Bureau, Inspection Division	812-0013	Fukuoka National Government Building ANNEX, 4th Floor, 2-11-1, Hakataeki-Higashi, Hakata-ku, Fukuoka-shi	092-411-4862



Ministry of Health Labour, and Welfare  
Prefectural Labour Bureaus  
Labour Standards Inspection Offices