

# Legal 500

## Country Comparative Guides 2026

### Japan

## Employment and Labour Law

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This country-specific Q&A provides an overview of employment and labour laws and regulations applicable in Japan.

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## Japan: Employment and Labour Law

### 1. Does an employer need a reason to lawfully terminate an employment relationship? If so, state what reasons are lawful in your jurisdiction?

Under Japanese law, when an employer seeks to unilaterally terminate an indefinite-term employment contract without the worker's consent, a mere declaration of intent to terminate the labour contract is insufficient; the so-called 'doctrine of abuse of the right to dismiss' applies (Article 16 of the Labor Contract Act). This doctrine codifies the principle established by the Supreme Court ruling (*Supreme Court Decision, April 25, 1975*). For a dismissal by an employer to be deemed valid, (1) an 'objectively reasonable cause' for the dismissal is required, and (2) the dismissal must be recognised as 'socially acceptable'.

Whether an 'objectively reasonable cause' exists is a requirement concerning the presence or absence of grounds for dismissal from an objective, typological perspective. The key issue is whether there is a basis for the dismissal in the work rules or similar documents (i.e., the terms and conditions of employment constituting the labour contract). Under Japanese law, 'objectively reasonable causes' recognised as lawful broadly fall into three categories: (i) the employee's inability to provide labour, or a lack or loss of work capacity or competence (e.g., significantly poor work performance); (ii) the employee's disciplinary violations (e.g., disobeying a superior's instructions, causing damage to the company due to misconduct), and (iii) operational necessity attributable to the employer (e.g., restructuring layoffs due to poor company performance or company dissolution).

Whether the dismissal is 'socially acceptable' is a requirement to justify exercising the right to dismiss, determined based on the specific circumstances surrounding the dismissal. Specific factors for judgment include: the nature and severity of the grounds deemed an 'objectively reasonable cause'; the individual's circumstances (attitude of reflection, past work attitude/disciplinary history, age/family situation, etc.); balance with past disciplinary actions against other employees, and the employer's conduct and shortcomings (whether specific instructions or guidance were provided to give an opportunity for improvement,

whether a procedural opportunity to hear the employee's explanation was provided at the time of dismissal notification, and whether the dismissal was not motivated by improper reasons). The issue is whether, in light of these circumstances, the severe penalty of dismissal is deemed excessively harsh.

### 2. What, if any, additional considerations apply if large numbers of dismissals (redundancies) are planned? How many employees need to be affected for the additional considerations to apply?

In cases of layoffs, courts tend to determine the validity of the dismissal by comprehensively considering the specific circumstances related to the following four elements (*Tokyo District Court Decision, January 21, 2000; Osaka High Court Judgment, March 24, 2016, etc.*). Since restructuring dismissals are dismissals based on the employer's circumstances, stricter standards are applied in determining their validity than for dismissals attributable to the employee's fault. These standards apply regardless of the number of employees targeted for dismissal.

(i) Necessity of Personnel Reduction: The implementation of personnel reduction must be based on sufficient necessity arising from corporate management issues such as recession, decline, or poor business performance, or be recognised as an unavoidable measure.

(ii) Efforts to Avoid Dismissal (Necessity of Selecting Layoffs as a Means of Workforce Reduction) : Measures to avoid layoffs must have been implemented, such as reducing expenses (including cutting overtime pay by stopping overtime work), reducing temporary workers, reducing or eliminating executive compensation and employee bonuses, not renewing fixed-term contracts, halting new hires, suspending pay raises, reassigning employees, or offering voluntary retirement programs.

(iii) Rationality of Selection: Objective and reasonable criteria must be established for selecting employees subject to dismissal, and these criteria must be applied fairly.

(iv) Fairness of the termination process: Conducting labour-management negotiations, individual interviews,

and other procedures to provide explanations, disclose information, and engage in consultation with workers.

### 3. What, if any, additional considerations apply if a worker's employment is terminated in the context of a business sale?

Dismissals based solely on a worker's refusal to consent to the transfer of their employment contract to the acquiring company, or dismissals based solely on the occurrence of a business succession, are strictly restricted. If dismissals are necessary due to reasons such as surplus personnel arising from a business succession, the criteria for restructuring dismissals outlined in Question 2 above apply. Appropriate measures to maintain employment, such as reassignment to departments not subject to transfer, must be considered.

Furthermore, in the case of a company split, the Labor Contract Succession Act applies. This Act stipulates that employees primarily engaged in the transferred business must have their employment contracts included in the transfer unless they object, and that procedures such as individual consultations with employees are required. Dismissal in violation of this Act is not permitted. There is also case law (*Supreme Court Decision, July 12, 2010*) where it was recognised that the obligation to consult was breached due to the above procedures being significantly inadequate, and the employment contract with the original company was deemed to continue for the affected worker.

### 4. Do employees need to have a minimum period of service in order to benefit from termination rights? If so, what is the length of the service requirement?

The length of an employee's service does not, in principle, constitute a prerequisite for the application of labour laws restricting dismissal, such as the doctrine of abuse of the right to dismiss. However, when dismissing a worker during the probationary period (refusing permanent employment) either at the end of the probationary period or during it, it is understood that the employer reserved the right to refuse permanent employment in order to investigate and observe the worker's suitability—such as their qualities, character, and abilities—through actual work, which could not be fully ascertained at the time of hiring. Therefore, while the doctrine of abuse of the right to dismiss applies, there is a tendency to recognise a broader scope of freedom to dismiss compared to ordinary dismissals (*Supreme Court Decision, December*

12, 1973).

### 5. What, if any, is the minimum notice period to terminate employment? Are there any categories of employee who typically have a contractual notice entitlement in excess of the minimum period?

When an employer intends to dismiss an employee, they must, in principle, give notice of dismissal at least 30 days in advance (Labor Standards Act, Article 20, Paragraph 1).

There is no category of employees for whom a notice period exceeding 30 days is typically stipulated in contracts. Conversely, the notice requirement generally does not apply to:

- Daily workers whose continuous employment has not exceeded one month;
- Workers employed for a fixed term of two months or less who have not exceeded the fixed term;
- Workers employed for seasonal work for a fixed term of four months or less who have not exceeded the fixed term;
- Workers during a probationary period whose employment has not exceeded 14 days.

### 6. Is it possible to make a payment to a worker to end the employment relationship instead of giving notice?

If notice of dismissal is not given at least 30 days in advance, the employer must pay the worker an allowance equivalent to at least 30 days' average wages (Labor Standards Act, Article 20, Paragraph 1). The notice period may be shortened by the number of days for which the allowance is paid (same article, Paragraph 2).

### 7. Can an employer require a worker to be on garden leave, that is, continue to employ and pay a worker during their notice period but require them to stay at home and not participate in any work?

Under Japanese labour jurisprudence, workers have the right to demand payment of wages, but generally do not have the right to demand work unless special circumstances exist. Therefore, as long as the employer

continues to pay full wages, it is possible to order the worker to remain at home during the notice period (30 days) based on the general authority to issue work instructions, for reasonable purposes such as maintaining confidentiality or avoiding disruption of business operations. However, it is important to note that if the home standby period is unreasonably long, even if wages are paid, there is a risk that the period and purpose may be deemed unreasonable, constituting an abuse of the authority to issue work orders, and thus becoming illegal and invalid.

**8. Does an employer have to follow a prescribed procedure to achieve an effective termination of the employment relationship? If yes, describe the requirements of that procedure or procedures. Is an employee entitled to appeal against their termination?**

In addition to providing 30 days' advance notice of dismissal or payment of advance notice compensation as described above, if employment rules, labour agreements, labour contracts, etc., stipulate procedures such as holding a committee meeting in advance, conducting a hearing, providing an opportunity for explanation, or prior consultation with the labour union, all such procedures must be fully carried out. Furthermore, even in the absence of explicit provisions, whether the employer lawfully followed procedures is considered under the doctrine of abuse of dismissal rights. Therefore, it is necessary to provide the worker with an opportunity to state their opinion and defend themselves.

If a worker wishes to contest the dismissal as unfair, they may challenge the validity of the dismissal through labour tribunal proceedings or litigation. Labour tribunal proceedings are designed to conclude within a maximum of three hearings. A Labour Tribunal Committee, composed of a judge and two arbitrators with expertise in labour relations, conducts proceedings in private, aiming for settlement in a flexible manner within a short timeframe. If no settlement is reached, the Labour Tribunal Committee may issue a ruling. If an objection is filed against this ruling, the case proceeds to litigation. Litigation, on the other hand, is a public proceeding with no limit on the number of hearings, and proceedings tend to be protracted.

**9. If the employer does not follow any prescribed procedure as described in response to question 8, what are the consequences for the employer?**

If the worker disputes the dismissal and the court rules it invalid, the employment contract with that worker is deemed to have continued after the dismissal date. The employer then becomes obligated to pay wages for that period.

**10. How, if at all, are collective agreements relevant to the termination of employment?**

If a labour agreement stipulates the grounds for dismissal or dismissal procedures, whether procedural or substantive, the provisions of the labour agreement take precedence over work rules or individual employment contracts (Labor Union Act, Article 16). Therefore, in principle, an employer cannot dismiss a worker in violation of these provisions.

The same applies if grounds for dismissal or dismissal procedures are stipulated in an individual employment contract. However, if the grounds or procedures stipulated in the individual contract are less favourable to the worker than those in the work rules or collective agreement, the provisions of the work rules or collective agreement shall apply (Labor Standards Act, Article 93; Labor Union Act, Article 16).

If a labour agreement contains provisions that are less favourable to workers than those in the work rules, and if the labour agreement relaxes the requirements for dismissal compared to the work rules, the provisions of the labour agreement are generally interpreted as valid. Therefore, if a labour agreement specifies grounds for dismissal not stipulated in the work rules, the employer may dismiss the worker in accordance with the labour agreement. However, it is important to note that labour agreements do not apply to non-union members, except in exceptional cases such as when extension of application is permitted under Article 17 of the Labor Union Act.

**11. Does the employer have to obtain the permission of or inform a third party (e.g local labour authorities or court) before being able to validly terminate the employment relationship? If yes, what are the sanctions for breach of this requirement?**

In principle, it is not necessary to obtain individual permission or provide notification to Japanese labour authorities or courts.

However, as an exception, when dismissing an employee for reasons attributable to the employee (limited to

serious violations of service discipline or acts of betrayal equivalent to disciplinary dismissal, such as criminal acts or major falsification of background information), and seeking exemption from the requirement to give advance notice of dismissal and pay the advance notice allowance, it is necessary to obtain a 'Certificate of Exemption from Advance Notice of Dismissal' from the Director of the Labor Standards Inspection Office.

Therefore, while immediate dismissal without payment of the dismissal notice allowance normally requires prior application to the Labor Standards Office Director, in practice, applications submitted after dismissal are generally accepted because the review for exemption certification takes over two weeks. Forcing immediate dismissal without obtaining this certification from the Labor Standards Office may constitute a violation of the Labor Standards Act and could be subject to penalties.

Furthermore, in situations such as restructuring layoffs where 30 or more employees are terminated within one month, employers are obligated under the Comprehensive Promotion of Labor Measures Act to submit prior notification of large-scale employment changes to the Hello Work office (Public Employment Security Office Director).

## 12. What protection from discrimination or harassment are workers entitled to in respect of the termination of employment?

An employer may not dismiss a worker for discriminatory reasons, and dismissals based on the following forms of discrimination are invalid:

**Attributes:** Discrimination based on nationality, creed, or social status (Labor Standards Act, Article 3).

**Gender:** Dismissal based on gender, as well as discriminatory treatment in retirement encouragement or mandatory retirement (Equal Employment Opportunity Act, Article 6, Item 4).

**Marriage, Pregnancy, Childbirth, etc.:** Dismissal of female workers based on marriage, pregnancy, childbirth, requesting or taking maternity leave, etc. (Equal Employment Opportunity Act, Article 9, Paragraphs 2 and 3).

**Labour Union Activities:** Dismissal based on union membership or participation in legitimate union activities (Article 7, Labor Union Act).

Furthermore, it is prohibited for employers to dismiss or otherwise disadvantage workers for consulting about

workplace harassment (such as sexual harassment, power harassment, or maternity harassment), cooperating in fact-finding, or seeking dispute resolution assistance from the Labor Bureau.

If such unfair dismissal occurs, the worker may claim the dismissal is invalid.

## 13. What are the possible consequences for the employer if a worker has suffered discrimination or harassment in the context of termination of employment?

The employer may be liable for civil damages (joint tort liability with the perpetrator of the discrimination or harassment, and the company's inherent liability for failing to provide a suitable working environment). Additionally, violating Article 3 of the Labor Standards Act (equal treatment) may be subject to penalties. There is also a risk of administrative guidance, recommendations, or public disclosure of the company's name for failing to implement harassment prevention measures. In recent years, incidents of harassment may be posted on social media by workers and spread widely, creating reputational risks.

## 14. Are any categories of worker (for example, fixed-term workers or workers on family leave) entitled to specific protection, other than protection from discrimination or harassment, on the termination of employment?

**Workers on Leave:** Dismissal is generally prohibited during the period a worker takes leave for medical treatment due to a work-related injury or illness, and for 30 days thereafter (Labor Standards Act, Article 19). However, this dismissal restriction is lifted during rehabilitation after symptoms stabilize, or when severance pay is provided after three years from the start of medical treatment, or when the worker is receiving injury/illness compensation pension.

**Workers on Childcare or Nursing Care Leave:** Dismissal is generally prohibited during prenatal and postnatal leave (6 weeks before and 8 weeks after childbirth) and for 30 days thereafter, in accordance with International Labour Organization (ILO) conventions (Labor Standards Act, Article 19). Furthermore, dismissal of pregnant women or women within one year after childbirth is invalid unless the employer proves it was not due to pregnancy or childbirth (Equal Employment Opportunity Act, Article 9, Paragraph 4).

Fixed-term workers: Dismissal of fixed-term or part-time workers solely because they requested an explanation of the content or reasons for differences in treatment compared to regular workers is prohibited. Furthermore, in the case of fixed-term employment contracts, termination during the employment period (rather than allowing the contract to expire) is only permitted when there are 'unavoidable reasons'.

### **15. Are workers who have made disclosures in the public interest (whistleblowers) entitled to any special protection from termination of employment?**

Under the Whistleblower Protection Act, dismissal based on making a public interest disclosure to an employer or administrative agency is prohibited, and such dismissal is legally invalid. Disadvantageous treatment, such as withholding severance pay, is also prohibited. The subject of a public interest disclosure must be a worker (including dispatched workers and public officials), an officer, or a former employee within one year of retirement, and the primary purpose of the disclosure must not be for improper gain.

### **16. In the event of financial difficulties, can an employer lawfully terminate an employee's contract of employment and offer re-engagement on new less favourable terms?**

Re-employment under disadvantageous terms based solely on management issues is generally not permitted. Regarding notice of termination for change of employment conditions, which constitutes dismissal for the purpose of altering working conditions, case law (*Tokyo District Court Decision, April 13, 1995*) has established that: (i) the necessity of changing working conditions must be weighed against the disadvantage suffered by the worker; (ii) the necessity of the change must be deemed unavoidable and sufficient to justify dismissal of workers who refuse re-employment; and (iii) the employer must have fulfilled its duty to make reasonable efforts to avoid dismissal. In making this determination, the existence of circumstances making the change unavoidable (necessity of change) and the reasonableness of requiring the employee to accept the disadvantage caused by the change (reasonableness of change) must be interpreted in accordance with the doctrine of abuse of the right to terminate. However, since notice of termination for change constitutes dismissal aimed at altering working conditions, it appropriately incorporates the aspect of changing

working conditions, allowing for a more lenient interpretation than the standard requirements for ordinary dismissal.

### **17. What, if any, risks are associated with the use of artificial intelligence in an employer's recruitment or termination decisions? Have any court or tribunal claims been brought regarding an employer's use of AI or automated decision-making in the termination process?**

Employers possess freedom of choice as part of their freedom of recruitment (the freedom to decide whom to hire and by what criteria), so the mere use of AI in hiring decisions does not immediately render it unlawful. However, the freedom to investigate (the freedom to conduct investigations to obtain information for hiring decisions), also part of recruitment freedom, is constrained by considerations such as the applicant's personal dignity and privacy. Investigations conducted in ways that infringe upon these rights may constitute a tort. Furthermore, regarding information collected and used in hiring, compliance with the Personal Information Protection Act is required. Additionally, Article 5-4 of the Employment Security Act generally prohibits the collection of personal information that could lead to social discrimination. Therefore, careful consideration is necessary regarding the data used as the basis for AI analysis and evaluation. Furthermore, according to the Ministry of Economy, Trade and Industry's 'Guidelines for AI Operators', a case was reported where an IT company's self-developed AI recruitment system, trained primarily on resumes from male candidates, concluded that hiring men was preferable, resulting in discrimination against women. This demonstrates the risk that AI may make discriminatory judgments.

The decision to dismiss an employee must be made in accordance with the doctrine of abuse of dismissal rights, by comprehensively considering the specific individual circumstances of the employee in question and determining whether there exists an 'objectively reasonable cause' and 'socially acceptable appropriateness'. If dismissal is based solely on AI-calculated performance scores or risk assessments, it may fail to flexibly consider individual circumstances. This risks prioritising factors that should not be considered while neglecting those that should, potentially failing to meet the standard of 'socially acceptable fairness'.

At present, no specific cases have been identified in Japanese courts or labour tribunals where the use of AI

or automated decision-making in the dismissal process has been a point of contention.

### 18. What financial compensation is required under law or custom to terminate the employment relationship? How is such compensation calculated?

Financial compensation upon employment termination typically includes severance pay calculated according to internal regulations and advance notice pay in cases of dismissal. In practice, settlement payments to secure voluntary agreement to resignation are often key.

**Severance Pay:** The amount calculated according to internal regulations such as work rules or severance pay regulations is paid. Provisions may exist to withhold all or part of the severance pay in cases like disciplinary dismissal. However, since severance pay is considered to have a deferred wage nature, withholding it requires a finding of serious misconduct sufficient to nullify or diminish the employee's prior contributions. This point is judged strictly.

**Notice Pay:** When an employer terminates an employee immediately, the employer must generally pay notice pay equivalent to at least 30 days' average wages.

**Back Pay:** If an employee challenges the validity of their dismissal and it is deemed invalid, the employer must retroactively pay wages equivalent to the period from the dismissal date (so-called 'back pay') based on Article 536(2) of the Civil Code. This is because the employee was unable to provide labour due to reasons attributable to the employer. Note that if the worker earned income elsewhere after dismissal, amounts exceeding 60% of the average wage may be deducted when calculating back pay. Since back pay is only recognised when a judgment of dismissal invalidity is issued, it becomes one factor to consider when determining the amount of settlement money when the worker disputes the validity of the dismissal and a settlement (compromise) is sought.

**Severance Payment:** When aiming for voluntary resignation through an offer of retirement rather than dismissal, it is common practice to propose a severance payment and reach an agreement that includes this point. Furthermore, even after dismissal, when the worker disputes its validity, settlement negotiations often result in an agreement where the worker resigns in exchange for a severance payment instead of reinstatement.

The amount of the settlement payment is determined on a case-by-case basis, depending on factors such as the

worker's salary level, whether the company has valid grounds for dismissal, the worker's claims, and the company's intentions.

### 19. Can an employer reach agreement with a worker on the termination of employment in which the employee validly waives his rights in return for a payment? If yes, in what form, should the agreement be documented? Describe any limitations that apply, including in respect of non-disclosure or confidentiality clauses.

It is common practice for employers and employees to agree that the employee will resign in exchange for monetary payment from the employer, formalising this agreement in a written settlement agreement. The agreement becomes valid upon signature or seal by both the employer and the employee. Such agreements often include a confidentiality clause stipulating that neither party shall disclose the content of negotiations between them or the existence of the agreement itself to any external parties. Additionally, depending on individual circumstances, the parties may agree not to engage in conduct or statements that defame or disparage the other party. Furthermore, to ensure the agreement constitutes a final and conclusive settlement of disputes and prevent future litigation, it is crucial to include a settlement clause confirming that no further claims or liabilities exist between the parties beyond what is stipulated in the agreement.

As outlined above, in addition to including necessary clauses in the agreement, the agreement itself must be reasonable in content and concluded through a reasonable process and manner to avoid subsequent claims that it was created through fraud or duress. Employers must take care not to present misleading explanations to workers regarding the agreement's content prior to signing, must answer questions honestly, and must avoid unreasonable conduct such as strongly pressuring workers to sign within an unreasonably short timeframe.

### 20. Is it possible to restrict a worker from working for competitors after the termination of employment? If yes, describe any relevant requirements or limitations.

Workers generally do not bear a non-compete obligation after resignation due to their freedom of occupation (Article 22, Paragraph 1 of the Constitution). However, exceptions may be recognised as valid if employment

rules stipulate such obligations or individual agreements/pledges exist, provided their content remains within a 'reasonable scope' that does not unduly restrict the worker's freedom of occupation.

The specific requirements courts consider for a non-compete agreement to be valid and enforceable include: (i) whether there is a legitimate interest worthy of protection (e.g., confidential information, know-how, personal relationships with customers); (ii) the worker's position and role (e.g., whether they had access to confidential information); (iii) whether the restriction period is unreasonably long (examples often limit it to about 1-2 years), (iv) whether the restricted geographic area is too broad, (v) whether the scope of prohibited acts is limited to the minimum necessary, and (vi) the existence and content of compensatory measures.

Regarding the existence and content (amount) of compensatory measures for the worker, the key point is whether appropriate compensation is provided as consideration for the non-compete restriction. However, there are no uniform requirements or standards. If adequate compensation commensurate with the restriction's severity is absent, the obligation itself is highly likely to be deemed invalid as violating public policy (Article 90 of the Civil Code). However, some court precedents have recognised the validity of such restrictions even without separate compensatory measures when the worker's salary during employment was exceptionally high (e.g., *Fukuoka High Court Decision, November 11, 2020*; *Tokyo District Court Decision, May 13, 2022*).

**21. Is it possible to restrict a worker from soliciting customers or clients, or employees of the employer, after the termination of employment? If yes, describe any relevant requirements or limitations (including any payments that must be made to the worker for the restriction to be valid and enforceable).**

Restrictions on soliciting former employers, clients, or other employees may be imposed through individual agreements. However, since such restrictions may limit workers' freedom of occupation and freedom of business, they are only considered valid if they remain within reasonable limits.

The factors for determining whether provisions restricting contact with customers or business partners are valid and enforceable are largely similar to those mentioned above. Key considerations include whether the scope of

affected customers is unnecessarily broad. On the other hand, provisions restricting the solicitation of other employees are generally considered to have a smaller impact on a worker's freedom of occupation and freedom of business. Therefore, such provisions are generally considered valid unless the scope of restriction is unnecessarily broad.

**22. Can an employer require a worker to keep information relating to the employer confidential after the termination of employment?**

Yes. Many Japanese companies require workers to submit confidentiality agreements upon joining and stipulate confidentiality obligations in their work rules, thereby imposing an obligation on workers to maintain the confidentiality of information learned during employment even after resignation. In practice, it is also advisable to have workers submit a separate agreement upon resignation confirming their continued obligation to maintain confidentiality.

**23. Are employers obliged to provide references to new employers if these are requested? If so, what information must the reference include? What duties apply to employers giving references?**

There is no legal obligation to provide qualitative references when requested by a new employer. Even when providing references voluntarily, the employer generally needs to obtain consent from the former employee for the disclosure of personal information.

However, if the worker requests a certificate of employment (stating the employment period, type of work, position, wages, and reason for resignation) or a certificate of reasons for dismissal, the employer is obligated to provide it (Labor Standards Act, Article 22). This certificate must not include any information not requested by the worker (same article, paragraph 3).

**24. What, in your opinion, are the most common difficulties faced by employers in your jurisdiction when terminating employment and how do you consider employers can mitigate these?**

The most significant difficulty in Japan when terminating employment is the restriction imposed by the strict doctrine of abuse of dismissal rights, unique to Japan.

Particularly, the question arises whether dismissal was unavoidable even after considering other means to avoid it. Even in cases where the worker is at fault, numerous prior actions and considerations are required of the employer, such as whether disciplinary action was previously taken for similar conduct or whether specific guidance for improvement was provided. In cases of restructuring dismissals due to deteriorating business conditions, an even higher hurdle is imposed in court practice. Consequently, in practice, if an employer proceeds with dismissal and a dispute arises, the risk of the dismissal being deemed invalid is generally very high. Employers are then forced into a difficult position, often facing substantial settlement payments and reputational risks.

To mitigate such legal risks, it is advisable to avoid unilateral dismissal from the outset. Instead, employers should aim to encourage resignation through employee interviews and multiple rounds of guidance, seeking either the employee's voluntary resignation or mutual agreement on resignation. This approach helps minimise the likelihood of subsequent disputes arising from contested dismissals.

Furthermore, when dismissal becomes unavoidable, it is advisable to carefully consider the matter with the assistance of legal professionals or other experts, and to thoroughly explain to the employee the specific reasons for the dismissal decision and why it could not be avoided. When the validity of a dismissal is contested, there have been cases where compensation for mental distress was claimed based on statements made by company representatives at the time of notification. Therefore, it is important to maintain objective documentation, such as written records or recordings, of the content and actual circumstances of the explanations provided to the employee.

## 25. Are any legal changes planned that are likely to impact the way employers in your jurisdiction

### approach termination of employment? If so, please describe what impact you foresee from such changes and how employers can prepare for them?

In Japan, as stated above, the validity of employer dismissals has been judged according to the doctrine of abuse of dismissal rights since the Supreme Court ruling (*Supreme Court Decision, April 25, 1975*). There are no planned legal amendments that would affect this fundamental approach.

However, Japan has seen repeated legislative amendments in recent years to expand the rights of workers providing childcare or nursing care. In this context, additional prohibitions will be introduced against adverse treatment, such as termination of employment, based on an employee requesting or taking leave under these expanded rights. The Childcare and Family Care Leave Act, enacted in May 2024 and being implemented in phases starting April 2025, expands the scope of leave for child care to cover children up to the completion of third grade. It also adds new grounds for taking leave, such as class closures due to infectious diseases and school entrance/graduation ceremonies. Furthermore, the exclusion clause for 'less than six months of continuous employment' based on labour-management agreements is abolished. Consequently, unfavourable treatment, such as termination of employment based on taking leave, is prohibited even for workers immediately after joining the company. For nursing care leave, the exclusion clause for 'less than six months of continuous employment' is also abolished, similar to leave for caring for a child.

Employers are required to establish systems compliant with the legal revisions. This includes updating internal regulations and making announcements within the company to ensure that, as before, workers providing childcare or nursing care are granted leave under statutory systems and flexible working arrangements. Employers must refrain from approaches that could lead to termination of employment, which would hinder the use of these systems.

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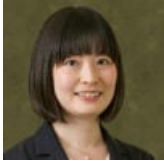
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