

BIPO TIMES



Understanding Japan Labour Law & Employment Regulations

Japan

The third-largest economy in the world, Japan today is known for its technological advancement and economic power.

Similar to other developed countries, the service sector in Japan is the largest contributor to its economy, characterised by many long-established businesses (shinise). Exports accounted for 18.5% of GDP in 2018.

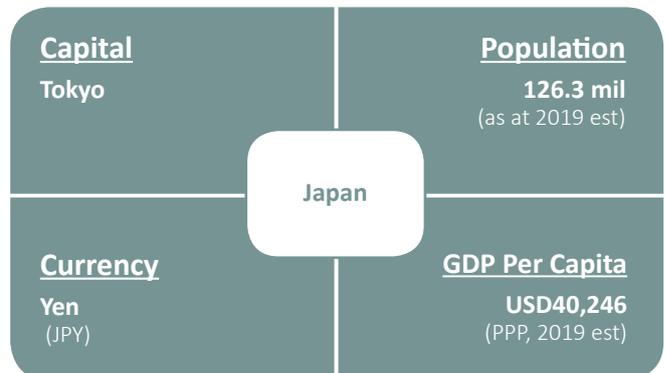
With a relatively low unemployment rate of 2.4%, Japan's labour workforce comprises 67 million people as of 2019.

Overview

1. Business Culture in Japan

Japan is a country that attaches great importance to observing rules, cooperation, sympathy, trust, and credibility. Especially in the business context, additional importance is placed on compliance and integrity, quality, and service accuracy. Furthermore, Japan is known as a country of high-context communication, where communication and synchronisation are especially important within the organisation and in human relationships.

However, in recent years, direct communication is increasingly required due to the shift in generations, globalisation of businesses, the Internet, and diversity.



Business Culture Types

Type	Features	Countries
High-context Culture (Low language dependence and based on mutual understanding)	Work: Focus on teamwork and relationships Communication: Prefers indirect expressions Responding to change: Respect traditions without making major changes (focusing on the past)	Mainly Japan and Asian countries
Low-context Culture (Highly language-dependent and requires explanation)	Work: Task-oriented and achieving individual goals Communication: Many direct expressions Responding to change: Major changes (focusing on the present and future)	Mainly Western countries

2. Establishing a Legal Entity in Japan

Self-service procedures to establish a company are often complex, hence, it is recommended to engage qualified specialists at each stage. Additionally, to open a corporate bank account for a newly established company, the registered representative director's residence address must reside in Japan (registered as a resident).

*Since March 2019, the banking rules have changed, and if the representative director lives outside of Japan, it is no longer possible to open a corporate bank account in Japan.

5 Steps to Establishing a Legal Entity in Japan

Steps	Preparation	Documents	Place of Submission	Agency
1	Preparation for new legal entity	Company name, business purpose, head office location, Capital, etc.	Preparation	
2	Create articles of incorporation and be certified	Create articles of incorporation with the contents decided in Step 1 and receive certification	Notary Public Office	Lawyer/Qualified administrative scrivener
3	Company establishment registration	Articles of incorporation and other documents prepared in Step 2	Legal Affairs Bureau (Registration)	Lawyer/Qualified administrative scrivener
4	Tax-related procedures	Notification of company establishment-related documents, and first tax return document	Tax Office (Local Tax, Corporate Tax, Income Tax)	Tax consultant
5	Labour insurance/Social insurance	Procedures after hiring one employee	Labor Standards Inspection Office, Pension Office, Health Insurance Office	Qualified social insurance labour consultant

3. Labour Standard Law

The Labour Standards Law is a Japanese law that sets the minimum standards for working conditions and was enacted in 1947, based on Article 27, Paragraph 2 of the Japanese Constitution. This law is a unified worker protection law. Thus, even if there is an agreement between the employer and the worker, working conditions below the minimum standard under the Labour Standards Law will not be permitted.

In addition, the following major laws must be stipulated in the work regulations of the company.

Major Labour Laws

Major Labour Laws	Specifications
Labour Standards Act	To protect the rights of workers, it is a law that sets the minimum standards for working conditions of workers such as labour contracts, wages, working hours, holidays and annual paid leave, accident compensation, and work regulations.
Labour Contract Act	This law is relatively new and was passed in 2007. To avoid complexities related to labour contracts, rules have been established regarding the conclusion and modification of labour contracts.

Industrial Safety and Health Act	It is a law concerning worker safety and hygiene that ensures the well-being and health of workers, to promote a comfortable working environment. Furthermore, health examinations are legally stipulated, and employers are required to conduct annual health examinations for workers.
Equal Employment Act	It is a law to ensure equal opportunities and treatment for men and women in the field of employment. It is stipulated that you must not be treated unfavourably in the workplace based on your gender.
Part-time Labour Act	This is a law concerning the improvement of employment management for part-time workers. Appropriate working conditions and conversion to a full-time position should be stipulated even for part-time workers.
Childcare / Nursing Care Leave Act	It is a law to promote the welfare of workers to balance childcare/nursing care with work. Restrictions on overtime work, implementation of short working hours, and disadvantageous treatment of employees such as dismissal and demotion are prohibited.
Minimum Wage Act	The minimum wage that businesses pay to workers is set by region. There are penalties for salaries below the minimum wage. (Fine of 500,000 yen or less)
About Fines for Penalties	Penalties are stipulated in each article, but the heaviest punishment is "imprisonment of 1 to 10 years or a fine of 200,000 to 3,000,000 yen".

4. Working Hours

The Labour Standards Law stipulates rules such as regular work, breaks, and holidays (legal holidays), and even if overtime pay is paid, it is necessary to conclude a labour-management agreement (known as 36 agreements) in advance. If there is no 36 agreements, the employee is prohibited from working more than the legal working hours or working on holidays.

Working Hours, Rest Breaks and Days Off

Type	Definition
Working Hours	An employer shall not have the employee work more than 8 hours per day and 40 hours per week (Excluding rest periods).
Break	An employer shall provide workers with at least 45 minutes of rest period during working hours that exceed 6 hours, and at least 1 hours of rest when working hours exceed 8 hours.
Days Off	A day off is defined as a day that includes no working duty, as stipulated in the working contract. An employer shall provide workers with at least one day off per week or 4 days off in 4 weeks.

5. Overtime

Should the company require the worker to overtime or work on a holiday, the company must submit the 36 agreement to the relevant Labour Standards Inspection Office prior in advance.

*36 Agreement is a law concerning "overtime and holiday work" stipulated in Article 36 of the Labour Standards Law, and the labour-management agreement regarding overtime is called 36 agreement.

Overtime Pay

	Type of Overtime	Overtime Definition	Increase Rate
①	Overtime Work	8 hours or more of daily work	25%
②	Legal Holiday Work	Legal holidays set by the company (E.g. Sunday)	35%
③	Midnight Work	Between 10 pm and 5 am the next morning	25%
④	Overtime Work + Midnight Work	① + ③	25% + 25% = 50%
⑤	Legal Holiday Work + Midnight Work	② + ③	35% + 25% = 60%

⑥	Non-legal Holiday Work	Non-legal holiday work (E.g. Saturday)	0%
⑦	Non-legal Holiday Work + Overtime Work	⑥ + ①	0% + 25% = 25%

Additional notes:

- If there are two days off per week (Saturdays and Sundays), one will be a legal holiday and the other will be a non-legal holiday.
- Not eligible for overtime pay:
 - o All personnel registered in the company’s registered copy, such as the president and officers.
 - o Position of manager/supervisor (For a managerial role or higher, the roles and responsibilities exceed regulations such as working hours, breaks, holidays, etc. However, midnight work allowance is still applicable).

6. Leave Types

a. Annual Leave

Based on legalisation, annual paid leave must be granted to all full-time employees who have been employed for 6 months since their joined date, clocking 80% or more attendance during work.

Also, the Labour Standards Law was recently amended in April 2019 - Employers are required to make their staff take a minimum of 5 days of paid leave for those who are granted 10 days or more paid leave a year. The following are the minimum legal requirements. There is no restriction to granting more days than the following.

Annual Leave Granted Based on Years of Service

Service Years	6 months	1 year 6 months	2 years 6 months	3 years 6 months	4 years 6 months	5 years 6 months	6 years 6 months or more
Leaves Granted	10 days	11 days	12 days	14 days	16 days	18 days	20 days

Annual leave not taken in the previous year can be carried forward to the following year. However, the annual paid statute of limitations is set at 2 years.

Example: 10 days of leave granted on 1st October 2020 will expire as of 1st October 2022, assuming no paid leave were used.

In addition, the maximum number of paid leave that can be carried over is legally set at 20 days, so the maximum number of days that can be taken as paid leave in a year is 40 days. However, it is also possible to convert the unused paid leave to "special leave" as part of individual company policies.

Example of Accumulated Paid Leaves



*For part-time workers who work less than 4 days per week and accumulate less than 30 hours of regular work per week, a separate rule for granting paid leave is stipulated.

b. Other Leave Types

Legally, the following leave types must be granted upon request from the employee. Additionally, staff dismissal, reduction of salary, demotion due to taking the following leave are prohibited. However, each applicable employee is subjected to conditions such as 6 months or more of joining the company (or 1 year or more covered by social insurance) before being entitled to the following leave.

Leave Types

Leave Types	Definition	Note
Childbirth Leave	6 weeks before childbirth (14 weeks for twins), 8 weeks after childbirth	Unpaid leave / Benefits are paid by social insurance
Childcare Leave	Until the child is 1 year old (up to 2 years old depending on situational conditions)	Unpaid leave / Benefits are paid by social insurance
Nursing Care Leave	Up to 93 days	Unpaid leave / Benefits are paid by social insurance
Injury and Illness Leave	Up to 1 year and 6 months when taking a leave of absence due to illness or injury due to reasons other than work	Unpaid leave / Benefits are paid by social insurance
Menstrual Leave	Female only	Paid leave or unpaid leave as per company rule
Saiban-in Leave (Court Leave)	If you are selected as a lay judge	Paid leave or unpaid leave as per company rule

Additionally, it is common for companies to set policies for special paid holidays such as "Sick Leave," "Weddings and Funerals leave," "Summer Leave," Volunteer Leave, and "Refresh Leave" as part of the welfare programme for employees.

7. Termination and Severance Pay

a. Termination

The Labour Standards Law of Japan is very strict against dismissal as it can be deemed to be an abuse of rights. Thus, dismissals may be invalidated should they not be objectively reasonable and/or is not considered to be reasonable in social terms. Also, dismissing employees on leave (such as Maternity Leave or Sick Leave) is not permitted.

Dismissal Types

Type	Definition	Note
Ordinary dismissal	Based on the Labour Standards Law and the Labour Contract Law. Reasons for dismissal require objective rationality and it must be reasonable in social terms.	A notice of dismissal 30 days or more in advance is required. (Or 30 days' wage) However, the reason for dismissal may be invalid unless it is a "reasonable reason for dismissal by anyone".
Disciplinary dismissal	Dismissal of staff for significantly disrupting order in the company.	A notice of dismissal 30 days or more in advance is required. (Or wages for 30 days) However, it is necessary to specify the reason for disciplinary dismissal in the company regulations.
Restructuring	Dismissal for the purpose of business continuity of the company: 1. Necessary to reduce personnel 2. Efforts to avoid dismissal 3. Rationality of selection 4. Discussion between labour and management	In the event of employees' "Restructuring" due to business continuity of the company, it is necessary to meet the stipulated four conditions and notify the Labour Standards Inspection Office in advance.

If it becomes necessary to dismiss an employee, only the relevant employee (E.g. Human Resource) belonging to the company or a lawyer as a third party can be present at the discussion. Other personnel are not legally permitted.

* Immediate dismissal is considered within 14 days of the trial period after joining the company.

b. Severance Pay

Since severance pay is not legally required, companies are not required to have it as a system. Therefore, it can be introduced as a company-specific system. Many companies have also packaged it as part of their benefits. Additionally, when introducing a severance allowance system, it is necessary to create a severance allowance provision in the work regulations. The following is an example of a severance allowance system.

Example of a Severance Allowance System

Type	Definition
Normal Severance Pay Plan *Internally in company	Determined by service years. Example: For employees who have worked for 3 years or more, multiply the length of service by the monthly salary (3 years x 300,000 yen = 900,000 yen), etc. Calculation methods vary from company to company.
Defined Contribution Plan (DC) *Financial industry	The company decides the amount of premium that will be the source of retirement allowance in advance and contributes that allowance to employees every month. Employees select their products from the financial products lined up in DC and manage their premiums. Companies contribute a fixed amount of premium each month, but retirement allowances vary depending on the management of individual employees.
Defined Benefit Plan (DB) *Financial industry	This is a corporate pension system in which the "benefit amount" received by employees is promised in advance. If the company is responsible for the operation and the operation result is bad, the company will make up for the shortfall.
Cash Balance Plan (CB) *Financial industry	The "Cash Balance Plan" means that the company contributes the premium, and the company is responsible. This benefit is classified as a Defined Benefit type, which has the characteristics of both "Defined Benefit type (DB)" and "Defined Contribution type (CB)".

8. National Holidays

There are 16 national holidays in Japan each year. However, due to the Tokyo Olympics this year in 2021, the number of public holidays has increased to 17 (July 23 - Sports Day is usually not a holiday). Therefore, from next year, it will be back to 16 as usual.

Holidays in 2021

Date	祝日名	English	Date	祝日名	English
2021/1/1 (Fri)	元日	New Year's Day	2021/7/22 (Thu)	海の日	Marine Day
2021/1/11 (Mon)	成人の日	Coming-of-age Day	2021/7/23 (Fri)	スポーツの日	Sports Day
2021/2/11 (Thu)	建国記念の日	National Foundation Day	2021/8/8 (Sun)	山の日	Mountain Day
2021/2/23 (Tue)	天皇誕生日	Emperor's Birthday	2021/8/9 (Mon)	振替休日	Substitute Holiday
2021/3/20 (Sat)	春分の日	Vernal Equinox Day	2021/9/20 (Mon)	敬老の日	Respect for Elders Day
2021/4/29 (Thu)	昭和の日	Shōwa Day	2021/9/23 (Thu)	秋分の日	Autumnal Equinox Day
2021/5/3 (Mon)	憲法記念日	Constitution Memorial Day	2021/11/3 (Wed)	文化の日	Culture Day
2021/5/4 (Tue)	みどりの日	Greenery Day	2021/11/23 (Tue)	勤労感謝の日	Labour Thanksgiving Day

Article contributed by

Kayoko Tahara, Head of HR Service Delivery

BIPO Japan

Around the World with BIPO

Hong Kong – 20 July 2021

In our ongoing series on SaaS solutions, Florence Mok, Managing Director – North Asia was featured in an interview with Hong Kong's leading online HR portal, humanresourcesonline Hong Kong about why SaaS security continues to be a priority amidst the current pandemic. From accelerating digital adoption, to implementing a cloud applications strategy, Florence shared her insights on why organisations must leverage secure SaaS technologies to transform the business. [Read the full article here.](#)

Singapore – 15 July 2021

Derick Teo, Director, Enterprise Go-Digital Solutions partnered alongside Ong Whee Teck, CEO of Trusted Services recently appeared in Asia’s flagship virtual tech event, Asia Tech x Singapore (ATxSG). In a rapid fireside chat, Derick tapped on Whee Teck’s expertise as to how business leaders can leverage new, agile ways to effectively manage teams in today’s increasingly VUCA environment.



[Watch it on-demand here](#)

Japan – 15 July 2021

BIPO Japan hosted its first webinar about Japan’s Labour Law and Employment Regulations. Conducted by Kayoko Tahara, Head of HR Service Delivery, the webinar attracted more than 70 participants and included a live Q&A session along with quick pointers on Japan’s business culture.

Singapore – 13 July 2021

Albert Liew, Managing Director – Singapore & Indochina was recently interviewed by HRM Asia, Asia’s leading news and business intelligence portal for the HR and business community. He delved into an array of topics from hybrid work models and digitalisation shaping the digital economy to how SaaS technologies can be successfully deployed across organisations to secure the future of work. [Read the full article here.](#)

Malaysia – 1 July 2021

Karen Lee, BIPO’s Managing Director – Southeast Asia and Oceania, was recently featured in an interview with, Human Resources Online, one of the leading online HR publications in Asia. During this exclusive interview, Karen shared insights on why SaaS security for businesses is critical amidst the current pandemic in the context of enterprises in Malaysia. [Read the full article here.](#)

About us

At BIPO, we help businesses transform and digitalise, enabling them to thrive and realise their growth ambitions. Around the world, we support over 2,800 client in more than 100 countries and regions with a new generation of HR solutions. Our comprehensive suite of service products from our award-winning cloud and mobile-based HR Management System (HRMS), multi-country payroll calculation, overseas landing services, Business Process Outsourcing (BPO) to attendance automation provide clients with a multi-regional, integrated and seamless user experience.

Our global R&D Centres are the foundation of BIPO’s HRMS and Workio platforms, providing cutting-edge, agile, and innovative technology solutions to meet the needs of Industry 4.0. We are also ISO-27001 certified with multi-country compliance, providing clients with the trust and confidence to champion their international growth plans.

Founded in 2004, BIPO is a leading one-stop global HR and Payroll service provider with a vast network of offices in 23 cities across Asia Pacific, Americas, Europe, Middle East & Africa supported by four R&D Centres in Singapore, Mainland China, Indonesia and Malaysia. Our APAC Headquarters in Singapore serves as our hub for the region.

✉ hello@biposervice.com

🌐 www.biposervice.com

in [bipo-svc](#)

f [biposvc](#)

©2021 BIPO Service · All right reserved

