

To All Employers

Regarding the Revised Employment Security Act (Job Order Refusal)

As of March 30, 2020, revisions to the Employment Security Act, along with related government and ministerial ordinances and guidelines, came into effect. These changes allow recruitment agencies to refuse job orders from employers who have violated certain labor-related laws. This leaflet outlines important considerations for employers when submitting job orders to recruitment agencies.

In principle Recruitment agencies are required to accept all job orders. However, they may refuse to accept job orders that fall under any of the following conditions (requirements ④ to ⑥ were added by the revised Employment Security Act):

1. a job order that violates Japan laws or regulations
2. a job order that is determined to have inappropriate working conditions
3. a job order that does not clearly indicate working conditions such as wages/salary and working hours in accordance with Article 5-3, Paragraph 2 of the Japan Employment Security Act.
4. a job order from a person/company that has been subject to a disposition, public announcement, or guidance on corrective action for violating the provisions of labor-related laws
5. a job order from a company that is associated with antisocial forces/organized crime groups
6. a job order from a company that does not respond to requests for self-reporting, without a valid reason

- Recruitment agencies are required to request a self-declaration form from employers to determine whether the job application meets the above conditions. The Employment Security Act stipulates that employers must respond to this request from recruitment agencies unless they have a legitimate reason not to.
- Furthermore, if the recruitment agency becomes aware that the job order falls under any of the conditions ① to ⑥ above, it is advisable for them to refuse to accept the application.



- If an employer fails to respond to the self-declaration form request from the recruitment agency without a legitimate reason, the job order will not be accepted. Therefore, please cooperate with the self-declaration process.
- Additionally, if false information is provided in the self-declaration form, the employer may be subject to recommendations or public disclosure by the Prefectural Labor Bureau. Therefore, please ensure that the self-declaration is accurate.

[Reference: Employment Security Act]

Article 5-5 Public Employment Security Offices, designated local governments, and recruitment agencies must accept all job orders. However, they may refuse to accept job orders that fall under any of the following categories: 1-6 (①-⑥ mentioned above).

Section 2 Public Employment Security Offices, designated local governments, recruitment agencies may request a report from employers if necessary to confirm whether a job order falls under any of the conditions in the previous section.

Section 3 Employers must respond to the request from the previous section unless they have a legitimate reason not to.

Job orders will not be accepted if they fall under any of the following conditions

Main Cases of Concern		Basic Period for Refusal to Accept Applications
Provisions Related to the Labor Standards Act and Minimum Wage Act	If the same violation of the applicable provisions has resulted in corrective guidance being given more than twice within a year	Until six months have passed after the correction of the legal violation
	If an employer is prosecuted and publicly disclosed due to a violation of the applicable provisions	Until one year has passed since the date of prosecution
Provisions Related to the Employment Security Act, the Equal Employment Opportunity Law, and the Child Care and Family Care Leave Law	If an employer violates the applicable provisions, fails to comply with a recommendation to correct the legal violation, and is publicly disclosed	Until six months have passed after the correction of the legal violation

Legal Provisions That Result in Job Applications Being Rejected in Case of Violations

LAW	Applicable Provisions
Labor Standards Act	Equal Pay for Equal Work: Article 4; Prohibition of Forced Labor: Article 5; Disclosure of Working Conditions: Article 15; Paragraphs 1 and 3; Wages: Articles 24, 37, Paragraphs 1 and 4; Working Hours: Articles 32, 36, Paragraph 6 (Items 2 and 3), Article 141, Paragraph 3; Holidays and Leave: Articles 34, 35, Paragraph 1, 39, Paragraphs 1, 2, 5, 7, and 9; Young Workers: Articles 56, Paragraph 1, 61, Paragraph 1, 62, Paragraphs 1 and 2, Article 63; Pregnant and Postpartum Workers: Article 64-2 (limited to Item 1), Article 64-3, Paragraph 1, Articles 65, 66, 67, Paragraph 2; (*Includes cases where the provisions of the Worker Dispatch Law, Article 44 (excluding Paragraph 4) are applicable.)
Minimum Wage Act	Minimum Wage Act, Article 4, Paragraph 1
Employment Security Act	Disclosure of Working Conditions: Article 5-3, Paragraphs 1, 2, and 3; Handling of Personal Information of Job Seekers: Article 5-4; Reporting at the Time of Job Application: Article 5-5, Paragraph 3; Commissioned Recruitment: Article 36; Prohibition of Receiving or Providing Compensation Related to Recruitment: Articles 39 and 40; Non-interference in Labor Disputes: Article 42-3 (as applied by reading Article 20); Obligation to Maintain Confidentiality: Article 51
Equal Employment Opportunity Law	Article 5 through Article 7; Article 9, Paragraphs 1 through 3; Article 11, Paragraph 1; Article 11-2, Paragraph 1; Article 12; Article 13, Paragraph 1; (*Includes cases where the provisions of the Worker Dispatch Law, Article 47-2 are applicable.)
Child Care and Family Care Leave Law	Article 6, Paragraph 1; Article 10 (including cases where Articles 16, 16-4, and 16-7 are applied by analogy); Article 12, Paragraph 1; Article 16-3, Paragraph 1; Article 16-6, Paragraph 1; Article 16-8, Paragraph 1 (including cases where Article 16-9, Paragraph 1 is applied by analogy); Article 16-10; Article 17, Paragraph 1 (including cases where Article 18, Paragraph 1 is applied by analogy); Article 18-2; Article 19, Paragraph 1 (including cases where Article 20, Paragraph 1 is applied by analogy); Article 20-2; Article 23, Paragraphs 1 to 3; Article 23-2; Article 25; Article 26; Article 52-4, Paragraph 2 (including cases where Article 52-5, Paragraph 2 is applied by analogy) *Includes cases where the provisions of the Worker Dispatch Law, Article 47-3 are applicable.

■ With the enforcement of the Act on Promotion of Women's Participation and Advancement in the Workplace (Act No. 24 of 2019), **as of June 1, 2020, some of the applicable provisions have been amended**. Violations of either of the following provisions, which result in a government recommendation or public disclosure, will also be subject to job application rejection:

◆ Additional Applicable Legal Provisions:

- 1. Prohibition of Adverse Actions Related to Sexual Harassment Reports or Consultations**
In detail: Equal Employment Opportunity Law, Article 11, Paragraph 2 (including cases where Article 11-3, Paragraph 2, Article 17, Paragraph 2, and Article 18, Paragraph 2 are applied by analogy); Child Care and Family Care Leave Law, Article 25, Paragraph 2
- 2. Employers Obligation to Prevent Power Harassment and Prohibition of Adverse Actions Related to Power Harassment Reports or Consultations:**
In detail: Comprehensive Labour Policy Promotion Law, Article 30-2, Paragraphs 1 and 2 (including cases where Article 30-5, Paragraph 2 and Article 30-6, Paragraph 2 are applied by analogy)
(Including cases where the provisions of the Worker Dispatch Law, Article 47-4 are applicable)

◆ Additional Applicable Cases:

Cases where public disclosure has occurred under the provisions of the Comprehensive Labour Policy Promotion Law, Article 33, Paragraph 2, and less than six months have passed since the correction.

Sample of Self-Declaration Form

*The example provided is for reference only. The actual self-declaration form may vary depending on the employment agency.

Self-Disclosure Form

Date:

At the time of this job order, we do not fall under the categories of job order rejection as specified by the Employment Security Law.

Company Name: _____

Company Address: _____

Representative Name: _____

Explanatory Notes on the Self-Disclosure Form

- 1.If any item on the following checklist applies, it will be subject to job order rejection as specified by the Employment Security Law.
- 2.If there are any changes to the information provided in this self-disclosure form, please promptly correct and resubmit the form.
- 3.If the disclosed information is found to be incorrect, it may be subject to recommendations and public disclosure by the Minister of Health, Labour and Welfare or the Prefectural Labour Bureau Chief, based on the provisions of Article 48-3, Paragraphs 2 and 3 of the Employment Security Law.

Please mark the checkboxes ("✓") if any of the following apply. Note that if any one of the following applies, the job order will be subject to rejection.

※Item 4 is not a basis for job order rejection; however, job placement services cannot be provided to businesses that fall under this category.

1. Labor Standards Act and Minimum Wage Act Related

(1) In the past year, if you have received more than two correction recommendations from the Labor Standards Inspection Office for violations of the same specific provisions (※1, 2), and:

- ☐ a. The violation has not been corrected.
- ☐ b. Less than six months have passed since the correction was made.

(2) If the company has been publicly named for engaging in illegal long working hours practices, and:

- ☐ a. The violation has not been corrected.
- ☐ b. Less than six months have passed since the correction was made.

(3) If an incident related to violations of the specified provisions has been referred to the public prosecutor and made public, and:

- ☐ a. The violation has not been corrected.
- ☐ b. Less than one year has passed since the referral to the public prosecutor.
- ☐ c. Less than six months have passed since the correction was made.

(4) During the job order rejection period, if you have received another correction recommendation from the Labor Standards Inspection Office for violations of the same specific provisions, and:

- ☐ a. The violation has not been corrected.
- ☐ b. Less than six months have passed since the correction was made.

(※1) Relevant Provisions of the Labor Standards Act

Contents	Regulations
Equal Pay for Men and Women	Article 4
Prohibition of Forced Labor	Article 5
Disclosure of Working Conditions	Article 15, Paragraphs 1 and 3
Wages	Article 24, Article 37, Paragraph 1 and 4
Working Hours	Article 32, Article 36, Paragraph 6 (specifically related to items 2 and 3) and Article 141, Paragraph 3
Break, Holiday, Paid leave	Article 34, Article 35 Paragraph 1, Article 39 Paragraph 1,2,5,7 and 9
Protection of Young Workers	Article 56 Paragraph 1, Article 61 Paragraph 1, Article 61 Paragraph 1 and 2, Article 63
Protection of Pregnant and Postpartum Workers	Article 64-2 (Partial Application of Article 1), Article 64-3 paragraph 1, Article 66, Article67, Article 67, Paragraph 2

※Article 44 of the Worker Dispatch Law (excluding Paragraph 4) including cases where it is applied

(※2) Regulations of the Applicable Minimum Wage Law

Contents	Regulations
Minimum Wage	Article 4 Paragraph 1

2. The Employment Security Act, the Equal Employment Opportunity Act, and the Childcare and Family Care Leave Act Related

(1) If the company does not comply with recommendations or improvement orders to correct violations of the relevant provisions (※3, 4, 5), the company's name may be publicly disclosed (※1),

- ☐ a. The violation has not been corrected.
- ☐ b. Less than six months have passed since the correction was made.

(Note 1) Disclosure in accordance with the provisions of Article 48-3, Paragraph 3 of the Employment Security Act, Article 30 of the Equal Employment Opportunity Act, or Article 56-2 of the Childcare and Family Care Leave Act.

(2) During the period of job order refusal, due to repeated violations of the same relevant provisions,

- ① Advice, guidance, or recommendations from the Employment Adjustment Department (Office),
- ② Advice, guidance, or recommendations from the Equal Employment Office have been received, and thereafter,
 - ☐ a. The violation has not been corrected.
 - ☐ b. Less than six months have passed since the correction was made.

(※3) Relevant provisions of the Employment Security Act

Contents	Regulations
Disclosure of Working Conditions	Article 5-1 Paragraph 1,
Handling of personal information of employees on leave, etc.	Article 5-4
Report at the time of job application submission	Article 5-1 Paragraph 3,
Commissioned recruitment	Article 36
Prohibition of Receiving and Providing Compensation in Relation to Recruitment of Workers	Article 39, Article 40
Non-intervention in Labor Disputes	In Article 42-3, the provisions of Article 20 of the relevant law shall apply mutatis mutandis.
Duty of Confidentiality	Article 51

(※4)Current Status of the Equal Employment Opportunity Law (Law Concerning the Assurance of Equal Opportunities and Treatment between Men and Women in Employment)

Contents	Regulations
Prohibition of Discrimination Based on Gender	Article 5,6 and 7
Prohibition of Adverse Treatment Due to Pregnancy or Childbirth	Article 9, Paragraph 1, Paragraph 2, and Paragraph 3, and Article 11-2, Paragraph 1
Sexual Harassment Related	Article 11 Paragraph 1
Health Management Measures During Pregnancy and After Childbirth	Article 12 and Article 13, Paragraph 1

※Includes cases where applied pursuant to the provisions of Article 47-2 of the Worker Dispatch Law

(※5)Provisions of the Childcare and Family Care Leave Law (Law Concerning the Welfare of Workers Engaged in Childcare or Family Care, including Childcare Leave and Family Care Leave)

Contents	Regulations
Obligations in the Case of Requests for Childcare Leave, Family Care Leave, etc., and Prohibition of Adverse Treatment	Article 6, Paragraph 1; Article 10 (including cases applied mutatis mutandis in Article 16, Article 16-4, and Article 16-7); Article 12, Paragraph 1; Article 16-3, Paragraph 1; Article 16-6, Paragraph 1; Article 16-10; Article 18-2; Article 20-2; Article 23-2; Article 25; Article 52-4, Paragraph 2 (including cases applied mutatis mutandis in Article 52-5, Paragraph 2); Restrictions on Work Beyond Prescribed Hours; Article 16-8, Paragraph 1 (including cases applied mutatis mutandis in Article 16-9, Paragraph 1); Article 17, Paragraph 1
Restrictions on Work Beyond Prescribed Hours	Article 12, Article 13, Paragraph 1

※Includes cases where applied pursuant to the provisions of Article 47-3 of the Worker Dispatch Law.

3. Other Reasons for Rejection

- ☐ a. The individual qualifies as a member of an organized crime group (※ 2).
 ☐ b. In the case of a corporation, there is a member of an organized crime group among its officers.
 ☐ c. A member of an organized crime group controls the business activities of the individual (or corporation).
- (※ 2) Refers to a member of an organized crime group as defined in Article 2, Item 6 of the Act on Prevention of Unjust Acts by Organized Crime Group Members.

4. Other (This is not a checklist item for rejecting job postings, but please review.)

Employment placement agencies are prohibited from providing job placement services to businesses where a strike or lockout is taking place. If applicable, please check the box below.

☐ A strike or lockout is currently being conducted at the business.

Points to Note:
 As of June 1, 2020, the following provisions have been added with the enforcement of the Act Partially Amending the Act on the Promotion of Female Participation and Career Advancement in the Workplace (Act No. 24 of 2019):

(1) **Content:** Prohibition of adverse treatment against workers for consulting about sexual harassment or related matters.
Regulations: Article 11, Paragraph 2 of the Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment (including cases where Article 11-3, Paragraph 2, Article 17, Paragraph 2, and Article 18, Paragraph 2 apply), and Article 25, Paragraph 2 of the Child Care and Family Care Leave Act.

(2) **Content:** Employers' obligation to take measures to prevent power harassment in the workplace and prohibition of adverse treatment for consulting about power harassment.
Regulations: Article 30-2, Paragraphs 1 and 2 of the Comprehensive Labor Measures Promotion Act (including cases where Article 30-5, Paragraph 2 and Article 30-6, Paragraph 2 apply), and cases where Article 47-4 of the Worker Dispatching Act applies.
 Additionally, cases where the employer violates the provisions in (2), and where the violation has been made public under Article 33, Paragraph 2 of the Comprehensive Labor Measures Promotion Act, but has not been rectified within six months, will also be added as grounds for rejecting job postings.