

The Japan Pension Institution began to take charge of the system as of 1 January 2010.

[JPN ¶70-171] The private sector pension system

Many Japanese companies provide pensions or lump sum retirement allowances which can amount to substantial payments.

Sometimes retirement allowance rules mention instalment payments which are higher in total than the one time retirement allowances because of the incorporation of interest. If the recipient dies before the expiration of the pay out period, the remainder will be paid in full to the recipient's heirs or relatives.

[JPN ¶70-181] Defined contribution pension system

With effect from 1 October 2001 and 1 April 2002, new systems for company pension plans became available in Japan. The new systems do not affect the mandatory social security pension system but establish a new model for company-based pension schemes.

The most important feature of the new model is the allowance for a contribution-oriented scheme instead of a benefit-oriented one. While under the benefit-oriented scheme, the employer would guarantee the pension amount (ie defined benefit); under the new system the employer guarantees the amounts of contribution to the pension securing system of the employees' choice. It is therefore the employee who bears the risk of the actual outcome of the investment of the guaranteed contributions. The employee is obliged to choose a combination of three different options out of a variety ranging from life insurance to state bonds and share investments. Changing the structure of the portfolio is possible every three months.

When a company decides to start the new defined contribution system, it will have to consult with the employees and establish a scheme which is subject to approval of the Ministry of Health, Labor & Welfare. The Ministry will *inter alia* check on the details of the contracts forming the scheme. Once the approval of the Ministry is obtained and the system is introduced in the company, all employees under the age of 60 have to join the system. Employees who change their employers after an employment period of at least three years with one employer, may transfer the accumulated sum to the new employer's defined contribution system or the state pension insurance.

The contributions to the new system will be paid by the employer, with a maximum amount of ¥276,000 per year (¥23,000 per month), in circumstances where a company based pension system is already in existence and will be held up by the company in addition to the new system. If there is no pension system in existence, the amount can be no more than ¥552,000 (¥46,000 × 12). Contributions to the new system are deemed to be part of expenses, while the pension itself will not be tax-free, if it exceeds a certain amount.

Self-employed persons or employees whose employer does not introduce the new system may, if they are under the age of 60, join a private defined contribution system established by the Nation People Pension Fund Confederation, *Kokumin Nenkin Kikin Rengoukai*. Here, the maximum contributions for self-employed persons are ¥816,000 per year (¥68,000 per month), including the amount paid for the state pension, while employees may contribute ¥216,000 per year (¥18,000 per month) in maximum. The contributions to the private system are tax-deductible. Accumulated sums may be transferred to another employer's system.

The Tax-Qualified Retirement Pension System, the most prevalent retirement allowance/pension system in Japan, will be abolished on 31 March 2012, as such many companies are changing to the Defined Contribution Pension System. The benefits under this system are:

- (i) employers do not have to run the risk of having to provide any "defined benefit" amount, as their obligation is to make a payment of some "defined contribution" amount; and
- (ii) employees can carry their rights to the next company that they work in when they leave their current employer as long as their next employer has the same system.

The detriments of the system are:

- (i) employers are prohibited from changing the current system into the Defined Contribution Pension System if there is any deficit in the amount to be accumulated for the payment;
- (ii) that employers are obliged to provide sufficient education to their employees about investment of money; and
- (iii) employees are not permitted to receive money up to the age of 60 years old, as a rule.

[JPN ¶76-187] Welfare pension insurance premiums

Employee's Welfare Pension Insurance is funded by equal contributions from the employer and the employee.

Just over a decade ago, the total premium was a little over 9% of the employee's salary, including the base pay, bonuses and allowances. Premiums have continued to increase, however, due to Japan's rapidly aging population. The current rate is 15.704% and 16.448% for dangerous occupations effective from September 2009 to August 2010. Further, this premium rate is scheduled to be increased to 18.3% by 2017.

The premium will continue to be funded equally by both parties, up to the time the employee reaches the age of 70.

Like health insurance, employees are assigned a premium level based upon their monthly salary. There are 30 premium levels in total. Premium level 30 (the highest) applies to anyone making over ¥605,000 per month. The premium

Lawful dismissal

[JPN ¶80-081] Introduction

Dismissal means termination of the employment contract against the will of the employee.

Dismissals are valid if backed up with objectively reasonable and socially appropriate grounds (Art 16 *Employment Contract Act*) when the subject employees are regular employees. Employers thus may not freely dismiss the employee — the employment — at-will system is not accepted in Japan.

Dismissal is lawful in principle for four reasons (objectively reasonable and socially appropriate grounds are found in four cases, as a rule):

- lack of qualification or poor performance of the employee;
- physical or mental inability due to sickness or injury;
- violation or infringement of an internal rule; and
- business necessity (redundancy).

Sometimes the courts rule that the reasons should be specified in the contract or in the Rules of Employment and that only such reasons justify dismissal. It is strongly advised to state dismissal reasons and to pay attention to drafting such reasons in contracts and especially the Rules of Employment.

The reason for dismissal must be so serious that the employer cannot be expected to uphold the employment relationship. In addition, they must be socially acceptable reasons for dismissal. The opinion of the employer alone is therefore insufficient if it is not in accordance with generally accepted principles for dismissal.

[JPN ¶80-091] Extremely poor performance

If a worker is incompetent or does not undertake any efforts to be competent, he or she may be dismissed. The same applies to employees with extremely poor job performance or prolonged absence from work.

From a practical viewpoint, it is imperative for the company to substantiate that:

- (1) the performance of the subject employee has been poor;
- (2) this situation has continued; and
- (3) the company has given opportunities to the employee to attempt to improve his/her performance through education, training, warning letters, and so forth.

From a practical viewpoint, it is extremely difficult for a company to substantiate these three points. The reason is that the fact of poor performance is so obvious within the company that the company does not think it is necessary

for it to gather information in order to try to persuade judges who are outside the company and do not necessarily know about what its business is. In many situations, the evaluation sheets of the employee include some comments such as “good” or “very good”, although the company argues that the performance has been poor. Further, the poor performance has to be attributable to the employee, not to other factors.

If incompetence has simply been tolerated for long periods, the employer may be deemed to be satisfied with such performance. Workers should be reminded to work in accordance with their duties, otherwise the employer cannot cite such deficiencies as reasons for dismissal. Reminders or warnings should be given in such a way that, if necessary, they can be used in court as evidence.

[JPN ¶80-095] Physical or mental inability

If a worker is unable to offer his or her labor due to physical or mental reasons unrelated to work, the employer is allowed to terminate the employment relationship.

The most important practical viewpoint is whether the physical or mental illness or injury from which the employee suffers is work-related. This is because if the injury or illness is work-related, the company is prohibited from unilaterally terminating the employee's contract. Some workers may argue that they are suffering from a mental illness caused by work (such illness may be precipitated by too much work, too many quotas, sexual harassment, bullying and so forth). From a practical viewpoint, a medical certificate issued by the medical doctor of the employee is not necessarily sufficient verification of the cause of the illness, and it is imperative that the company request the employee consult with a medical doctor whom the company designates.

[JPN ¶80-101] Disciplinary reasons

Workers may be dismissed for disciplinary reasons. However, not all breaches of discipline justify dismissal. Some transgressions of discipline may justify reprimands or other forms of internal punishment. Grave breaches of discipline will justify dismissal and severe breaches justify immediate dismissal (with the approval of the Employment Standards Inspection Office).

Breach of discipline may include breaches to the work rules and also breaches of general codes of behaviour like that of the Criminal Code. Again, not all criminal acts justify disciplinary reaction — a breach of traffic rules is not necessarily a reason for disciplinary action but may be so if the breach is directly related to an employee's duties (e.g. if the employee is a chauffeur).

Whistle-blowing, if not in itself justified, may provide a reason for disciplinary action, including termination. However, the *Whistle-blowers Protection Act*, in its latest version in force since 1 April 2006, protects whistle-blowers from disciplinary action in case of fulfilment of certain prerequisites. Whistle-blowing, in general, is defined by the law as disclosure, not for an illegitimate purpose, of relevant disclosure information by a worker to either an

6. Any other tasks as and when assigned by the management.

Prepared By:

Approved By:

Date of Approval:

[JPN ¶120-020] Warehouse Supervisor

POSITION : Warehouse Supervisor

DEPARTMENT : Warehouse

REPORTING TO :

JOB SUMMARY :

To plan, organize and supervise activities of the Warehouse to ensure the smooth flow of materials to the manufacturing and end-users while maintaining accountability at all times.

DUTIES AND RESPONSIBILITIES :

1. Implementing and maintaining an effective control system to ensure smooth flow of material.
2. Exercising effective supervision and deployment of manpower and equipment resources to achieve efficient operation and a high standard of housekeeping.
3. Ensuring accuracy of stock through effective utilization of relevant software applications.
4. Ensuring high standard of security in the Warehouse and receiving section.
5. Maintaining optimum utilization of space and constantly reviewing method of material handling to increase overall productivity.
6. Carrying out 100% inventory check on specific items on a weekly basis.
7. Preparing a discrepancy report when necessary.
8. Conducting training of staff on a weekly basis.
9. Staging and updating of parts on a daily basis.
10. Supporting the production line by following-up on the finished goods.
11. Conducting random checks on the specific items on a weekly basis.
12. Ensuring daily W/O kitting to production as per schedule.

13. Binning in of accepted/urgent materials to Warehouse.
14. Ensuring transaction in line with software system.
15. Following-up on shortage reports.
16. Corresponding daily activities with Planners and Buyers.
17. Preparing necessary reports on a monthly basis.
18. Any other tasks as and when assigned by the management.

Prepared By:

Approved By:

Date of Approval:

Job specifications

[JPN ¶120-021] Accountant

POSITION	: Accountant
DEPARTMENT	: Finance
REPORTING TO	:
MINIMUM QUALIFICATIONS	Degree from a trade school in Accounting/Costing OR Degree from a 2-year college in Accounting/Costing OR Degree from a 4-year university in Accounting.
MINIMUM YEARS OF EXPERIENCE	At least 5 years of relevant working experience.
PERSONAL QUALITIES	Self-disciplined. Honest.
OTHER REQUIREMENTS	Knowledge of IT. Leadership and supervisory skills. Good communication skills.