# Legal Compliance in Japan

1.	Legal Framework: Employment Laws	1
2.	Contracts of Employment  2.1. Overview  2.2. Written Employment Contracts  2.3. Oral Contracts  2.4. Employee Handbooks  2.5. Job Descriptions  2.6. Offer Letters  2.7. Checklist of Do's and Den'ts	1 1 2 4 4 5 6
3.	Recruiting, Interviewing, Screening and Hiring Employees	7
	3.1. Overview	7
	3.2. Recruiting	7
	3.3. Employment Applications	9
	3.4. Pre-employment Inquiries	9
	3.5. Pre-employment Tests and Examinations	9
	3.6. Background, Reference, and Credit Checks	9
	3.7. Interviewing	10
	3.8. Miring Procedures	10
	3.9. Fines and Penalties	11
	3.10. Checklist of Do's and Don'ts	11
4.	Managing Performance/Conduct	11
	4.1. Overview	11
	4.2. Coaching and Counselling	14
	4.3. Written Evaluations	14
	4.4. Warnings and Suspensions	14
	4.5. Checklist of Do's and Don'ts	15
5.	Termination of Employees for Performance or Disciplinary	
	Reasons	15
	5.1 Overview	15

	5.2.	Separation/Severance Pay	22
	5.3.	Fines and Penalties	23
	5.4.	Checklist of Do's and Don'ts	23
6.	Layo	ffs, Reductions in Force, and/or Redundancies	
		Result of Job Eliminations or Other Restructuring	23
	6.1.	- · · · · · · · · · · · · · · · · · · ·	23
		Reductions in Force/Layoffs/Job Eliminations	25
	6.3.		26
	6.4.	Checklist of Do's and Don'ts	26
7.	Labo	ur and Employment Law Ramifications Upon	
	Acqu	isition or Sale of a Business	26
	7.1.	Acquisition of a Business	26
	7.2.	Acquisition Checklist	28
	7.3.	Sale of a Business	32
	7.4.	Sale Checklist	33
8.	Use o	of Alternative Workforces: Independen Contractors,	
		ract Employees, and Temporary or Leased Workers	33
	8.1.	Overview	33
	8.2.	Independent Contractors	35
		a. Definition	35
		b. Creating the Relationship	35
		c. Compensation	35
		d. Other Terms and Conditions	35
	8.3.	Contract Workers	35
	8.4.	Leased Workers	36
	8.5.	Checklist of Do's and Don'ts	40
9.		gation to Bargain Collectively With Trade Unions:	
		loyees' Right to Strike and a Company's Right to	
		inue Business Operations	40
	9.1.	Overview of Unions' Right to Organize	40
	9.2.	Right of Employees to Join Unions	41
	9.3.	How Employees Select Unions	42
	9.4.	Pre-election Campaigning	42
	9.5.	Unfair Labour Practices	42
	9.6. 9.7.	Relocation of Work/Shutdown of Business	43
			43
10.		king Conditions: Hours of Work and Payment of	
		es – by Statute Or Collective Agreements	44
		Overview of Wage and Hours Laws	44
	10.2.	Minimum Wage	45
	10.3.	Overtime	46

	10.5. 10.6. 10.7. 10.8. 10.9.	Meal and Rest Periods Deductions from Wages Garnishment Exemptions to Wage and Hour Laws Child Labour Recordkeeping Requirements a. Information That Must Be Maintained b. Records That Must Be Retained c. Failure to Maintain Required Records Reductions in Compensation Caused by Economic	46 46 47 47 48 50 50 50
		Downturn Checklist of Do's and Don'ts	51 51
			31
11.	Collect 11.1. 11.2. 11.3. 11.4. 11.5.	r Working Conditions and Benefits: by Statute, ctive Agreements, Or Company Policy  Health and Other Insurance Pension and Retirement Benefits  Vacation and Holiday Payments on Termination  Leaves of Absence a. Personal Leave b. Medical or Sick Leave c. Bereavement Leave d. Family Leave e. Pregnancy Leave f. Maternity Leave g. Injury at Work Government Subsidies, Etc. Checklist of Do's and Don'ts	513 513 514 515 516 516 516 517 519 519 610 610
12.		ers' Compensation	60
		Overview	60
	12.2.	Checklist of Do's and Don'ts	61
13.		cany's Obligation to Provide Safe and Healthy cplace Overview of Safety and Environmental Laws and	61
		Regulations	61
		Requirements	62
	13.3.	Rights of Employees	62
		Rights of Employer	62
		Specific Standards Injury or Accident at Work	67 67
	13.0.	injury of Accident at Work	O.

	13.7. Workplace Violence	67
	13.8. Fines and Penalties	67
	13.9. Checklists of Do's and Don'ts	68
<b>14.</b>	Immigration, Secondment and Foreign Assignment	68
	14.1. Overview Laws Controlling Immigration	68
	14.2. Recruiting, Screening and Hiring Process	71
	14.3. Obligation of Employer to Enforce Immigration Laws	71
	14.4. Fines and Penalties	72
	14.5. Secondment/Foreign Assignment	72
	14.6. Checklist of Do's and Don'ts	72
<b>15.</b>	Restrictive Covenants and Protection of Trade Secrets and	
	Confidential Information	72
	15.1. Overview	72
	15.2. Restrictive Covenants and Non-compete Agreements	75
	15.3. Checklist of Do's and Don'ts	75
<b>16.</b>	Protection of Whistleblowing Claims	75
	16.1. Overview	75
	16.2. Checklist of Do's and Don'ts	77
<b>17.</b>	Prohibition of Discrimination in the Workplace	77
	17.1. Overview of Anti-discrimination Laws	77
	17.2. Age Discrimination	78
	17.3. Race Discrimination	79
	17.4. Sex Discrimination/Sexual Harassment	79
	17.5. Handicap and Disability Discrimination	81
	17.6. National Origin Discrimination	81
	17.7. Religious Discrimination	81
	17.8. Military Status Discrimination	81
	17.9. Pregnancy Discrimination	82
	17.10. Marital Status Discrimination	82
	17.11. Sexual Orientation Discrimination	82
	17.12. Retaliation 17.13. Constructive Discharge	82 83
	17.13. Constructive Discharge	83
	17.15. Checklist of Do's and Don'ts	83
40		-
18.	Smoking In The Workplace	83
	18.1. Overview	83
	18.2. Checklist of Do's and Don'ts	84
19.	Use of Drugs and Alcohol in the Workplace	84
	19.1. Overview	84
	19.2. Checklist of Do's and Don'ts	84

20.	AIDS, HIV, SARS, Bloodborne Pathogens 20.1. Overview 20.2. Checklist of Do's and Don'ts	84 84 85
21.	Dress and Grooming Requirements 21.1. Overview 21.2. Checklist of Do's and Don'ts	85 85 85
22.	Privacy, Technology and Transfer of Personal Data 22.1. Privacy Rights of Employees 22.2. Checklist of Do's and Don'ts	86 86 86
23.	Workplace Investigations for Complaints of Discrimination Harassment, Fraud, Theft, and Whistleblowing 23.1. Overview 23.2. Checklist of Do's and Don'ts	on, 86 86 87
24.	Affirmative Action/Nondiscrimination Requirements 24.1. Overview 24.2. Checklist of Do's and Don'ts	87 87 88
25.	Resolution of Labour, Discrimination and Employment Disputes: Litigation, Arbitration, Mediation and Conciliation  25.1. Internal Dispute Resolution Process 25.2. Mediation and Conciliation 25.3. Arbitration 25.4. Litigation 25.5. Fines, Penalties and Damages 25.6. Checklist of Do's and Don'ts	88 88 88 91 91 92 93
26.	Employer Recordkeeping, Data Protection, and Employee Access to Personnel Files and Records 26.1. Overview 26.2. Personnel Files 26.3. Confidentiality Rules 26.4. Employee Access	94 94 99 105 105
27.	Required Notices and Postings 27.1. Overview 27.2. Checklist of Do's and Don'ts	106 106 107