

# 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.**

	Before the revision	After the revision
In principle	Recruitment agencies are required to accept all job orders	
Exceptions	Job orders that fall under any of the following may be refused: 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 where the employer does not clearly specify the working conditions	
	<b>In accordance with the guidelines under the Act on Promotion of Youth Employment,</b> we encourage you to submit a notification specifying the scope of job categories, etc., indicating that you will not accept job postings for new graduates from employers who have committed certain violations of labor-related laws and regulations, which Hello Work is allowed to refuse.	④ a job order from employers who have committed certain violations of labor-related laws and regulations ⑤ a job order from a company that is associated with antisocial forces/organized crime groups

### [In addition, the following provisions will be established:]

- ① Employment placement agencies may request self-declarations from employers
- ② Even if an employer does not make a self-declaration, the job order may be refused
- ③ If an employer makes a false self-declaration, the Prefectural Labour Bureau may issue recommendations, make public announcements, etc.

➔ **If there is a possibility that the content of a self-declaration differs from the facts, please notify the Prefectural Labor Bureau!**



With the enforcement of the revised Employment Security Act, it is no longer necessary to submit notifications regarding the scope of job categories handled under the guidelines of the Act on Promotion of Youth Employment. For businesses that have already submitted such notifications, we ask that you, where possible, carry out procedures to change the scope of job categories handled in conjunction with timing such as permit renewals.

### 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 at least twice within a year	Until six months have passed after the correction of the legal violation
	If an employer is referred to the public prosecutor and publicly disclosed due to a violation of the applicable provisions	Until one year has passed from the date of referral to prosecutors
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

⇒ For the relevant provisions of the applicable laws, please refer to the following page

## 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.

### Points to note when implementing refusal of job orders

- (1) When accepting a job order, please request a self-declaration from the employer and confirm whether the job application falls under the criteria for refusal of acceptance. (An example of a self-declaration form is provided on the following page.)
- (2) If you become aware that a job application falls under the criteria for refusal of acceptance, it is considered desirable not to accept the job application.

★ Information such as referrals for prosecution and public disclosures under the Labor Standards Act and the Minimum Wage Act, as well as public disclosures under the Employment Security Act, the Equal Employment Opportunity Act, and the Child Care and Family Care Leave Act, is compiled on the Ministry of Health, Labour and Welfare website.

➔ <https://www.mhlw.go.jp/stf/seisakunitsuite/bunya/0000172497.html>



- 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.

# Self-Declaration 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 65, Article 66, 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 Comprehensive Promotion of Labor Policies 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, 6), 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 33, Paragraph 2 of the Act on Comprehensive Promotion of Labor Policies, 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 5-3, Paragraph 1, 2 and 3
Handling of personal information of employees on leave, etc.	Article 5-4
Report at the time of job application submission	Article 5-5 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) Comprehensive Promotion of Labor Measures (Act on Comprehensive Promotion of Labor Measures and Stabilization of Employment and Enrichment of Workers' Vocational Lives)

Contents	Regulations
Measures by employers concerning consultation (complaints handling) related to harassment	Article 30-2, Paragraph 1
Prohibition of disadvantageous treatment on the grounds of reporting harassment	Article 30-2, Paragraph 2 (including cases where applied pursuant to Article 30-5, Paragraph 2 and Article 30-6, Paragraph 2)

※Includes cases where applied pursuant to the provisions of Article 47-4 of the Worker Dispatch Law.

(※5) 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, 2, and 3, and Article 11-2 (including cases where applied pursuant to Article 11-3, Paragraph 2; Article 17, Paragraph 2; and Article 18, Paragraph 2)
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

(※6) Childcare Leave, Caregiver Leave, etc. (Act on the Welfare of Workers who take Care of Children or Other Family Members, Including Childcare Leave and Caregiver Leave)

Contents	Regulations
Prohibition of Disadvantageous Treatment for Applying for or Taking Childcare Leave or Caregiver Leave	Article 6, Paragraph 1; Article 9, Paragraph 3; Article 10; Article 12; Article 16; Article 16-6; Article 16-7; Article 16-8; Article 16-9; Article 16-10; Article 18-2; Article 20-2; Article 21, Paragraph 2; Article 25, Paragraph 1; and Article 52-4, Paragraph 2 (limited to cases where Article 16-3, Paragraph 3 applies)
Restrictions on Overtime Work, etc. Outside Prescribed Working Hours	Article 16-8, Paragraph 1 (excluding the portion concerning Article 16-3, Paragraph 3), Article 17, Paragraph 1 (excluding the portion concerning Article 16-3, Paragraph 3), Article 19, Paragraph 1 (excluding the portion concerning Article 20, Paragraph 1), Article 23, Paragraph 1; and Article 26

※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.