



HERBERT
SMITH
FREEHILLS



GUIDE TO JAPANESE EMPLOYMENT LAW: THE ESSENTIALS

LEGAL GUIDE

September 2015

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INTRODUCTION

The era where Japanese employees accepted employer authority without question in exchange for lifetime employment is fast being replaced with a new era: an era where Japanese employees are fully aware of their rights as prescribed in the *Labour Standards Act (LSA)*, *Labour Contract Act (LCA)* and myriad of other laws and regulations, as well as individual employment contracts and the Rules of Employment.

The direct result of this renewed consciousness of individual rights is illustrated in the Ministry of Health, Labour and Welfare (**MHLW**) statistics that reveal a marked increase in individual labour disputes, particularly those involving dismissals, involuntary redundancies, termination of fixed term contracts, sexual harassment and bullying in the work place. We are even seeing pre-emptive lawsuits filed by employees which seek court intervention into company performance management procedures.

In this changing climate, it is imperative that HR professionals in Japan are aware of the minimum requirements set out under the, sometimes difficult to navigate, Japanese labour laws.

This “Essentials” handbook aims to give employers a general understanding of the employment laws in Japan and how to effectively handle key employment issues including involuntary redundancy, rules regarding salary and overtime, leave and entitlements and how to maximise the company’s positions through effective drafting of the Rules of Employment, a document which is legally required for any employer in Japan who continuously employs ten or more workers.

This guide is designed for HR professionals to provide a brief, accessible summary of Japanese employment law processes in Japan. Of course, it is not, and never could be, a substitute for detailed advice on a case by case basis.

No photocopying.

The information provided in this publication is general and may not apply to any specific situation. Legal advice should always be sought (where appropriate, from local advisers) before taking any action on the information provided. The publishers and authors bear no responsibility for any acts or omissions contained herein. Information provided is accurate as at 11 September 2015.

Herbert Smith Freehills is not licensed to practice Japanese law. The information in the guide is provided based on our 15 years’ experience of working alongside Japan’s leading labour lawyers.

OUR TOKYO EMPLOYMENT PRACTICE

We are the only foreign firm to be consistently top-ranked for employment related work in Japan.

International organisations seek the advice of the team in Tokyo on both contentious and non-contentious employment issues including complex cross-border transactions. Within our employment practice we have several fluent Japanese speakers (both reading and writing) which ensures we are ideally positioned to assist our international clients with employment matters in Japan.

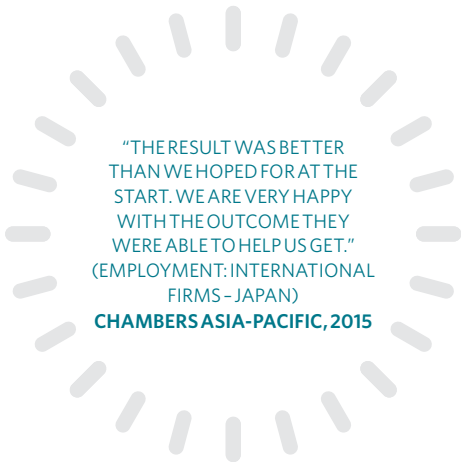
The Tokyo employment practice covers:

- redundancies and terminations;
- major workforce restructurings;
- executive severances and board reorganisations;
- employment handbooks, policies (data privacy, health & safety and Rules of Employment etc);
- employment litigation;
- discrimination claims; and
- matters involving trade unions.



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ACCOLADES



"[THE TEAM] [W]ORKS ON CONTENTIOUS AND NON-CONTENTIOUS OUTBOUND EMPLOYMENT ISSUES, INCLUDING ADVISING ON EMPLOYMENT POLICIES AND HANDBOOKS, WORKFORCE RESTRUCTURING, DISCIPLINARY PROCEEDINGS AND DRAFTING EMPLOYMENT CONTRACTS."

CHAMBERS ASIA-PACIFIC, 2014

"THIS INTERNATIONALLY FOCUSED FIRM SPECIALISES IN BOTH EMPLOYMENT AND INTERNATIONAL LITIGATION, MEANING IT IS WELL POSITIONED TO HANDLE RESTRUCTURING WITHIN JAPAN AND OUTBOUND M&A WORK FOR JAPANESE COMPANIES."

CHAMBERS ASIA-PACIFIC 2013

"ITS WELL-ESTABLISHED EMPLOYMENT PRACTICE ADVISES ON DRAFTING EMPLOYMENT CONTRACTS; EXECUTIVE SEVERANCES AND BOARD REORGANISATIONS; MAJOR WORKFORCE RESTRUCTURING; REDUNDANCIES AND TERMINATIONS; EMPLOYMENT LITIGATION; DISCRIMINATION CLAIMS; EMPLOYMENT ISSUES ARISING FROM COMPLEX CROSS-BORDER TRANSACTIONS; AND MATTERS INVOLVING TRADE UNIONS"

ASIA PACIFIC LEGAL 500 2013

"THIS FIRM COULD NOT COME MORE HIGHLY RECOMMENDED FOR THE STANDARD OF ITS INTERNATIONAL EMPLOYMENT DISPUTES WORK"

CHAMBERS ASIA 2009

"CLIENTS ESPECIALLY PRAISE THIS 'EFFICIENT, EXTREMELY IMPRESSIVE AND CLIENT-ORIENTED PRACTICE' [EMPLOYMENT] FOR ITS 'UNFAILINGLY PROMPT RESPONSES'."

CHAMBERS ASIA 2009

"[HERBERT SMITH FREEHILLS] IS A FIRM FAVOURITE WITH INTERNATIONAL CLIENTS INVOLVED IN EMPLOYMENT DISPUTES IN JAPAN."

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