PANORAMIC NEXT

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JAPAN



LEXOLOGY

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In this *Panoramic Next* guide, leading employment law practitioners from across the globe discuss the most consequential recent trends and developments that employers should know about, while also sharing their insights into best practices and potential future developments.

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ABOUT

Ayako Kanamaru is a partner of Oh-Ebashi LPC & Partners. Her employment practice covers all areas of employment management issues, including harassment, reorganisation, redundancies and labour disputes before the courts. She regularly represents multinational and domestic companies and provides flexible advice considering each client's industry.

Ryotaro Yamamoto is a partner at Oh-Ebashi LPC & Partners. He has a wide range of experience in HR matters, advising both domestic and international clients as well as dispute cases, including domestic litigation and international arbitration.

Q&A

WHAT ARE THE MOST IMPORTANT NEW DEVELOPMENTS IN YOUR JURISDICTION OVER THE PAST YEAR IN EMPLOYMENT LAW?

In light of the increasing incidences of customers and others causing nuisances or engaging in abusive conduct as a workplace harassment issue, there has been a recognition that customer harassment should not be left to individual employees to handle on their own, but rather should be addressed by employers as an organisational matter.

One of the key developments in this regard is that the Act on Comprehensive Promotion of Labor Policies was amended in June 2025, making it a legal obligation for employers to implement measures to prevent and address customer harassment.

Mandatory Customer Harassment Prevention Measures

The amended law comes into effect in October 2026, making it mandatory for employers to implement measures to prevent customer harassment.

"Customer harassment" in the workplace is defined as conduct that meets all of the following criteria:

- it consists of words or actions by a customer, business partner, facility user, or any other person having a relationship with the employer's business (collectively, "customers, etc");
- such words or actions exceed the bounds of socially acceptable behaviour in light of the nature of the business and other relevant circumstances; and
- they adversely affect the working environment of an employee.

Under the amended law, employers are legally required to implement measures to prevent customer harassment. The principal requirements are as follows.

1. Clarification and communication of the employer's policy: employers must clearly state their policy that customer harassment in the workplace will be dealt with in a firm and resolute manner and that employees will be protected from such conduct. This policy must be communicated to and promoted among employees. In

addition, employers are required to inform employees of what constitutes customer harassment and how the company will respond to such conduct.

2. Establishment of a consultation system: employers must designate a point of contact for consultations regarding customer harassment in advance and make employees aware of its availability. Employers are also required to ensure that personnel responsible for handling consultations are appropriately trained and capable of responding properly to reports and inquiries.
3. Prompt and appropriate response following an incident: when a consultation or complaint concerning customer harassment is received, employers must promptly and accurately investigate and confirm the relevant facts. Where customer harassment is found to have occurred, employers must promptly provide appropriate support and consideration to the affected employee and take measures to prevent recurrence.
4. Measures to deter customer harassment and ensure effective enforcement: employers are required to establish in advance a policy for dealing with particularly serious or malicious forms of customer harassment, communicate that policy to employees, and maintain a system that enables such measures to be implemented when necessary.
5. Additional measures to be implemented in conjunction with items (1) to (4) above: employers must take necessary measures to protect the privacy of individuals who seek advice or submit complaints and make employees aware of those protections. Employers must also establish and communicate a policy that employees will not be subjected to any disadvantageous treatment because they have had a consultation, or made a complaint, or report concerning customer harassment.

An employer's failure to comply with the statutory customer harassment prevention obligations may result in advice, guidance, or recommendations from the Minister of Health, Labour and Welfare (MHLW). Non-compliance with such recommendations may further lead to public disclosure by the relevant authorities. In addition, employers should be aware that, where employees suffer harm as a result of inadequate customer harassment measures, the employer may face civil liability for damages on the grounds of a breach of its duty of care for employee safety, its obligations under the principle of good faith, or its duty to maintain a proper working environment, giving rise to claims in contract or tort.

WHAT UPCOMING LEGISLATION OR REGULATION DO YOU ANTICIPATE WILL HAVE A SIGNIFICANT IMPACT ON EMPLOYMENT LAW IN YOUR JURISDICTION?

The amendments regarding part-time and fixed-term workers under the Act on Improvement of Employment Management of Short-Time Workers and Fixed-Term Workers (commonly known as the Part-Time and Temporary Workers Act) and its related regulations and guidelines, which were promulgated on 28 April 2026 and will come into force on 1 October 2026, are anticipated to have a major impact across all industry sectors in Japan.

The key components of the October 2026 legal revisions and updated guidelines include the following three main points.

Mandatory disclosure in labour condition notifications (new legal obligation)

Under the amended Enforcement Ordinance of the Part-Time and Temporary Workers Act, when hiring or renewing contracts for part-time or fixed-term workers, employers are legally required to explicitly state in writing (eg, in Labour Condition Notifications or employment agreements) that workers have the right to request explanations regarding differences in treatment compared to regular workers, along with the designated internal contact window for such requests.

Revisions to the Equal Pay for Equal Work Guidelines

Reflecting recent Supreme Court precedents, the revised Equal Pay for Equal Work Guidelines elaborate on specific criteria for evaluating reasonable and unreasonable treatment differentials between regular workers and part-time or fixed-term workers. The guidelines provide detailed principles for nine key treatment items, including:

- bonuses;
- severance pay (retirement allowances);
- various allowances (eg, no-accident, family and housing allowances); and
- fringe benefits or leave (eg, sick leave, summer or winter leave, welfare facilities and long-service awards).

Furthermore, abstract justifications – such as "securing and retaining regular talent" or "continued employment after mandatory retirement" – are explicitly clarified as insufficient on their own to justify treatment disparities.

Revisions to the Employment Management Guidelines

The amended Employment Management Guidelines set forth concrete measures for improving employment conditions, including establishing wage determination based on fair evaluation of duties and performance, ensuring compliance with the Human Resources Development Promotion Act, protecting and providing administrative support to majority representatives of part-time or fixed-term workers, and actively promoting transition to regular employee status through interview or electronic feedback mechanisms and public disclosure of transition metrics.

Since these amendments apply to all employers in Japan hiring part-time or fixed-term workers, with no exemptions based on company size, they are anticipated to have a far-reaching operational impact in practice. Consequently, businesses will be required to revise their model Labor Condition Notifications and employment contracts, review existing wage structures and fringe benefit rules across all worker categories, prepare objective documentation justifying any remaining treatment differences, and establish clear internal procedures and contact points for responding to employee inquiries.

HOW HAS THE #METOO MOVEMENT IMPACTED THE INVESTIGATION OR SETTLEMENT OF HARASSMENT OR DISCRIMINATION CLAIMS IN YOUR JURISDICTION?

In Japan, the highest profile #MeToo movement case involved a female journalist who went public using her real name in 2017 with the sexual assault she suffered at the hands of a male journalist. Although the criminal case was not prosecuted due to insufficient evidence, the victim filed a civil lawsuit for damages against the male journalist. In July 2022, the Supreme Court turned down the appeal from the male journalist, and the Tokyo High Court decision, which found that he had committed the sexual assault and ordered him to compensate the victim for damages in the amount of ¥3.32 million, was finalised.

During the period the #MeToo movement was spreading, in 2019, several not guilty verdicts were handed down at the district court level in sexual assault cases due to the high burden of proof in criminal cases. This led to the spread of a demonstration movement called the Flower Demonstration, in which people wore flowers to appeal for the eradication of sexual violence.

After these movements, the revised Penal Code was passed by the Diet and came into effect in July 2023, unifying the crimes of "forcible sexual intercourse" and "quasi-forcible sexual intercourse" into "sexual intercourse without consent". As the provisions of the previous forcible and quasi-forcible sexual intercourse crimes were abstract in wording, and there is a high burden of proof in criminal cases, convictions were difficult to obtain. Through this unification, sexual acts without consent were clarified as a crime, and in addition to the "assault and threat" stipulated in the old law as a requirement for punishment, eight specific acts such as "use of economic and social status", "causing fear and surprise" and "psychological reactions caused by abuse" were also stipulated. Furthermore, under the revised Penal Code, the country's age of consent for sexual intercourse was raised to 16 from 13.

In addition, sexual assaults in the entertainment industry have come to light and in recent years, the sexual assault of minors perpetrated by the founder of Johnny & Associates Inc (the company name was changed and is currently SMILE-UP. Inc), one of the leading talent agencies in Japan, has become a major issue. Furthermore, in 2023, a female announcer at Fuji Television, which is one of Japan's leading television stations, claimed that she had been sexually abused by a male entertainer who had been hosting a programme on Fuji Television. In 2025, an independent third-party committee was established by the company to investigate the allegations against the abuser and the company's response. The committee's report ultimately determined that the incident was sexual violence and occurred as an extension of work. The committee also criticised Fuji Television's executives for siding with the abuser and acting in his interests, which could have contributed to the "secondary victimisation" experienced by the female announcer.

In Japan, sexual harassment in the workplace is defined as "acts in the workplace that cause an employee to suffer disadvantages in their working conditions or harm to their work environment due to sexual conduct, and the employee's response to such sexual conduct" under the Equal Opportunity Act. Also, it provides that employers must take necessary measures to prevent sexual harassment in the workplace. Furthermore, the sexual harassment guidelines issued by the MHLW specify the details of specific preventive measures, including:

- clarifying and promoting policies on sexual harassment prevention;
- establishing a system to respond appropriately to employee consultations;
- ensuring prompt and appropriate responses after incidents;

- protecting the privacy of those involved in consultations or post-incident responses; and
- raising awareness about the prohibition of adverse treatment based on consultations or cooperation in light of the facts.

These statutory requirements were available before the #MeToo movement but not many cases were reported to companies and systems to handle such issues were immature.

Owing to the recent amendment of the Whistleblower Protection Act, companies with more than 300 employees are obliged to establish necessary systems to respond appropriately to internal reports from June 2022. Although acts subject to reporting under this Act are limited, harassment issues, including sexual harassment, are increasingly being reported to companies, and these cases have become one of the most reported issues in internal reporting systems.

According to the laws and guidelines above, the employer is required to take specific preventive measures and respond appropriately, including conducting sufficient investigation into the facts. Not only for employees in an employment relationship but also for freelancers, a client enterprise is required to take measures to establish a necessary system for dealing with the harassment of freelancers under the Freelance Act.

WHAT ARE THE KEY FACTORS FOR COMPANIES TO CONSIDER REGARDING THE ENFORCEMENT OF RESTRICTIVE COVENANTS AGAINST DEPARTING EMPLOYEES?

Restrictive covenants, such as non-compete clauses and non-solicitation clauses, are often included in the work rules, employment agreements and separate agreements. Basically, these covenants are agreed voluntarily between the parties and considered valid unless the covenants are so extensive and restrictive as to be considered to be against public policy or morality.

Since employees are not legally obliged to, and have no incentive to, accept restrictive covenants, it is extremely difficult to include these covenants, especially non-compete clauses, in a separate agreement when an employee is departing unless fair special compensation is offered.

Therefore, these covenants, if necessary, need to be proposed and accepted upon joining a company either in the form of an employment agreement or a special agreement because, at this time, the company has bargaining power over its employees.

At the same time, it is important to note, however, that an employee is guaranteed the freedom to choose their occupation (article 22(1) of the Constitution of Japan) and this guarantee of freedom includes the right to secure the employee's livelihood. Any non-compete clause that restricts this freedom, therefore, comes with the inherent risk that it will threaten the employee's livelihood. Accordingly, non-compete clauses will be deemed contrary to public policy and void if the restrictions go beyond what is considered necessary and reasonable, taking into consideration various factors, such as the following:

- whether it is intended to protect the legitimate interests of the employer;
- the employee's position before resignation;
- the types and scope of business to be restricted;

- the geographical area covered;
- the period during which competition is prohibited; and
- whether the employer provided compensation.

There are plenty of court cases regarding this issue, however, the judgments vary case-by-case, and it is extremely difficult to find specific criteria for judgment of whether a non-compete clause is contrary to public policy.

Generally, the narrower the scope of the restriction, the less likely that a non-compete clause will be considered contrary to public policy and void. For employers that wish to include a non-compete clause that generally prohibits an employee from working directly or indirectly in competition with the company's business, it is understood that the standards for determining enforceability are quite high and the company must consider paying significant compensation in exchange for such a covenant. However, instead of seeking broader restrictions, for example, if the employer includes a non-compete clause that specifically prohibits an employee from joining a direct competitor (identifying such competitors), the cases where such a non-compete clause is deemed to be contrary to public policy seem to be decreasing. In any event, when drafting non-compete clauses, all of the above factors should be adequately taken into account for such clauses to be valid and enforceable.

In contrast to non-compete clauses, non-solicitation clauses specifically included in the employment agreement or a separate agreement at the time of resignation do not, in principle, restrict any right guaranteed under the Constitution of Japan, and such clauses are generally considered to be enforceable.

IN WHICH INDUSTRY SECTORS HAS EMPLOYMENT LAW BEEN A HOT TOPIC RECENTLY? WHY?

The impact of the new statutory obligation to implement customer harassment prevention measures mentioned above is not confined to industries with frequent interactions with customers, etc. Rather, it extends to all employers whose employees may be exposed to conduct by customers, etc, business partners, facility users, or other stakeholders in connection with the employer's business.

Nevertheless, surveys conducted by the MHLW indicate that incidents of workplace customer harassment are particularly prevalent in the wholesale and retail, healthcare and welfare, and accommodation and food service sectors. Employers operating in these industries are therefore expected to be especially affected by the new requirements and may face increased compliance demands in implementing the mandated preventive measures.

The nature and manifestations of customer harassment vary by industry. In the wholesale and retail sector, for example, retail employees may be subjected to prolonged verbal abuse or other forms of harassment by customers, etc, dissatisfied with the service provided. In the healthcare and welfare sectors, abusive conduct by patients, service users, and their family members may constitute customer harassment, while service providers may, in some circumstances, face practical difficulties in immediately refusing services. In the accommodation and food service sector, it may take the form of demands for reductions in charges or other unreasonable requests.

Government authorities and industry associations have issued industry-specific customer harassment guidelines, and employers should take such guidance into account when designing and implementing effective preventive measures.

WHAT ARE THE KEY POLITICAL DEBATES ABOUT EMPLOYMENT CURRENTLY PLAYING OUT IN YOUR JURISDICTION? WHAT EFFECTS ARE THEY HAVING?

On 8 January 2025, the MHLW's Labour Standards Legislation Study Group, which is examining medium- to long-term revisions to the Labour Standards Act (LSA) and other laws in response to diversifying work styles, compiled a report (the Report).

Based on the Report, the MHLW will consult with the Labour Policy Council toward legal reform within 2025, aiming to revise the LSA and other laws as early as 2026. To provide an overview of the direction of future legal reform, we will provide an overview of the major points mentioned in the Report. The Report primarily addresses the following issues:

1. the definition of "workers" in the LSA;
2. the nature of labour-management communication; and
3. specific issues in work time legislation.

Regarding (1), the Report calls for clarification of the criteria for determining whether a person is a worker in order to address new working styles such as gig workers and ensure that the LSA is applied to those who are actually workers, and to increase the predictability of determining whether a person is a worker under the LSA. As working styles become more diverse, there are many cases where it is difficult to determine whether a gig worker is an actual worker, and if new standards are introduced, this is expected to have a major impact on practice.

In terms of (2), in order to create an environment in which workers can gather their opinions and communicate effectively with employers, future revisions are expected to include provisions on the legal status of majority representatives, clarification of fair and impartial election procedures, duties and powers, provision of information to majority representatives, support and convenience and prohibitions on unfavourable treatment.

The specific issues regarding the regulation of long working hours set out in (3) can be broadly categorised into three categories. The first is regarding regulations on maximum working hours, which include measures to ensure the effectiveness of regulations limiting overtime and holiday working hours, promoting the disclosure of information on working hours by companies, establishing a partial flextime system that can be applied only on certain days in order to promote flexible working styles such as teleworking and introducing a deemed working hours system for teleworking. Among these points, the partial introduction of a flexitime system, which allows workers to independently choose their start and finish times for work only on specific days, is expected to encourage more companies to consider introducing a flexitime system. Furthermore, many companies are currently struggling with how to manage actual working hours during teleworking, and the introduction of a deemed working hours system for teleworking, along with effective ways to ensure health, is likely to be welcomed by both companies and workers. However, opposition from some labour unions is also expected, so it is unclear whether it will actually be introduced. The next category is "regulations on liberation from work" and include the

introduction of a work interval system and the establishment of guidelines regarding the "right to be disconnected". Regarding the latter right to disconnect, it is not anticipated that the LSA will be amended, and the government is expected to first formulate guidelines to promote discussions between labour and management. The final category is regulations regarding overtime pay, specifically referring to changes in regulations regarding overtime pay for side jobs and multiple jobs. Under the current interpretation of the LSA, when an employee has a second job, the overtime pay must be calculated by adding up the total hours worked at the second job, and this is said to be one of the reasons why companies avoid allowing second jobs. Furthermore, it is proposed that a system be established to prevent evasion of overtime pay regulations in cases where employees work for multiple businesses under the orders of the same employer. The Report requires the development of the legal system, rather than a change in the interpretation of the current article 38 of the LSA, and it is expected that fundamental reforms to the system will be made.

While the Report originally envisioned consulting with the Labour Policy Council during 2025 and aiming for legal reform as early as 2026, the MHLW officially decided in December 2025 to postpone the submission of the LSA amendment bill for the 2026 ordinary Diet session.

This postponement stems from a broader policy realignment under the government's Japan Growth Strategy Council (Labor Market Reform Sub-committee), which instructed a comprehensive review balancing health maintenance (eg, prohibition of 14 consecutive working days and mandatory 11-hour rest intervals) with expanded worker autonomy and flexible working options.

The government plans to consolidate the direction of labour market reforms, after which formal deliberations will resume at the MHLW's Labour Policy Council (Labor Conditions Section). Consequently, the submission and enactment of the revised LSA are now expected to come in 2027 or later.

The Inside Track

WHAT ARE THE PARTICULAR SKILLS THAT CLIENTS ARE LOOKING FOR IN AN EFFECTIVE LABOUR AND EMPLOYMENT LAWYER?

When it comes to labour matters, if clients wish to resolve them risk-free, the client’s options will be limited and the client’s costs will increase as a result. Therefore, after appropriately assessing risks, we present a concrete solution for resolving labour issues practically and effectively and provide our clients with the necessary measures and communication strategies in an easy-to-understand manner.

WHAT ARE THE KEY CONSIDERATIONS FOR CLIENTS AND THEIR LAWYERS WHEN HANDLING EMPLOYMENT DISPUTES?

In practice, many employment disputes are resolved through court or out-of-court settlements. Therefore, while seeking to obtain a judgment in favour of the client at trial, we must consider when and under what conditions it would be in the best interests of the client to reach a settlement and discuss with the client at every stage. Based on such considerations, we always suggest what steps should be taken to lead to a desirable settlement and to achieve a settlement in favour of the client.

WHAT ARE THE MOST INTERESTING AND CHALLENGING CASES YOU HAVE DEALT WITH IN THE PAST YEAR?

We regularly handle cases of investigations into harassment-related allegations. These cases are challenging because where there are conflicting statements or no witnesses, there are limitations on what the investigation can discover, and it is often difficult to determine whether harassment has occurred. In the case the accused person was part of the top management of the company, the matter also affects corporate governance issues. We provide our clients with detailed advice, including preservation of evidence, communication with employees and interviews with various personnel, to determine the facts and propose appropriate remedial measures.

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