

# Japanese Law Explained

## Terminating Employment

Can employers unilaterally terminate employees because they feel like it? The short answer is “no” because Japanese labor law significantly restricts it. Many multinational corporations have encountered legal challenges after terminating staff without knowing the law or thinking labor law in Japan is the same as in other countries. Japanese labor law offers greater protection to employees than in other places around the world. This article will dive into some of the details of labor law in Japan.

### 1. Basic concept of labor protection in Japan

Article 16 of the Labor Contract Act states that a dismissal is invalid unless: (i) there exists “objectively reasonable grounds,” and (ii) it is “appropriate in general societal terms.”

This core legal standard was first developed through a Supreme Court case before being formally codified into statute.

### 2. Defining “Objectively reasonable grounds”

The employer’s reason for dismissal must be justified from an objective, third-party perspective and not just the employer’s subjective assessment.

Reasons typically recognized as “objectively reasonable” include dismissals where:

- The employee had previous disciplinary violations
- The employee was incapacitated or had poor past performance
- The employer had an operational necessity to dismiss the employee

Conversely, dismissals based on mere personal dislike or employee’s exercise of legal rights were NOT considered objectively reasonable.

### 3. Defining “Appropriate in general societal terms”

In Japan, a dismissal must be fair and acceptable with regard to notions of common sense and societal standards of justice.

Courts generally consider multiple factors when determining whether firing the employee is socially acceptable, such as;

- the nature and severity of the reasons for dismissal
- the employer's efforts taken to mitigate the need for dismissal
- the employee's circumstances
- disciplinary action taken against other employees in similar circumstances

#### **4. Remedies for invalid termination**

If a dismissal is invalid, the labor contract remains effective. The dismissed employee is entitled to request confirmation of their ongoing employment status and payment of unpaid wages for the period of dismissal.

#### **5. Dispute resolution in labor cases**

In Japan, Labor Tribunals are a specialized, fast court procedure designed to resolve disputes by the conclusion of the third court hearing. While enticing to some employers and employees, this procedure may not always be appropriate, especially when the case and its evidence are overly complicated, such as when it involves discrimination or harassment claims. When a Labor Tribunal is not appropriate, filing a lawsuit is generally recommended.

As an out-of-court option, utilizing alternative dispute resolution may facilitate a simpler and quicker resolution if the opposing side agrees.

End.

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