

# **Q&A for New Coronavirus COVID-19 (for Workers)**

**(April 17, 2020 version)**

(Reference)

The Small and Medium Business Enterprise Agency provides financing support (loans/guarantees) to businesses including freelancers affected by the spread of the new coronavirus.

Please check here.

URL: <https://www.meti.go.jp/covid-19/index.html>

## **1 When you have symptoms of a cold, how to respond when infection is suspected**

Q1) I have a fever or cough. What should I do?

A1) If you have cold symptoms such as a fever, we are asking companies to have workers not come to work. Resting is good for you, and it is an important action that can help prevent the spread of infection.

For the response to suspected infections, see "Q&A for New Coronavirus (for General Public)"

Q28 "I have a fever or cough. What should I do?"

[https://www.mhlw.go.jp/stf/seisakunitsuite/bunya/kenkou\\_iryuu/dengue\\_fever\\_qa\\_00001.html#Q28](https://www.mhlw.go.jp/stf/seisakunitsuite/bunya/kenkou_iryuu/dengue_fever_qa_00001.html#Q28)

How to prevent the new coronavirus

<https://www.mhlw.go.jp/content/10900000/000599643.pdf>

With the new coronavirus designated a designated infectious disease on February 1, if it is confirmed that a worker is infected with the new coronavirus, the prefectural government is required to comply with the Infectious Disease Act, and the governor will be able to create employment restrictions and hospitalization recommendations to the relevant workers.

If you are advised by the prefectural governor to be hospitalized based on the Infectious Disease Act, please understand that you will not be able to work due to hospitalization, and that you should not work if employment restrictions are placed by the prefectural governor.

In addition, if you are advised by the prefectural governor based on the Infectious Disease Act to be hospitalized or have employment restrictions placed on you, we ask that you cooperate to share this information with your employer.

## **2 Leave allowance and annual paid vacation days under the Labor Standards Act**

<If you are infected and take time off>

Q1) If I take days off from my company due to being infected with the new coronavirus, will I be paid a leave allowance?

A1) If a worker takes time off due to employment restrictions imposed by the prefectural governor and is infected with the new coronavirus, it is generally considered that this does not fall under "time off due to reasons attributable to the employer". As a result, no leave allowance is paid.

In addition, if you are enrolled in employee insurance, you will receive an injury and sickness allowance if you meet the requirements.

Specifically, you will be compensated two-thirds of average daily standard remunerations for the last twelve months from the day three days after the day when it is no longer possible to work due to medical treatment.

Check with your insurer for details on specific application procedures.

<Voluntary leave for those with fever>

Q2) I am thinking of taking days off from work because I have symptoms such as a fever. Will I be paid a leave allowance?

A2) While we are calling for companies to allow time off, if workers voluntarily take time off due to symptoms such as a fever without knowing if they have the new coronavirus, they will not be eligible to receive a leave allowance. In this case, if the company has an optional paid sick leave system, you should check rules such as the work rules and utilize that.

<Handling of annual paid vacation days and sick leave>

Q3) Because of a fever, can I use annual paid vacations days and take time off from my company?

A3) Annual paid vacation days must be given during the season requested by workers in principle, so they can be taken for any reason. If the company has optional sick leave, you should check check the workplace regulations and other rules and use it.

<Application to part-time workers>

Q4) Are part-time, temporary, and fixed-term contract workers eligible for leave allowances and annual paid vacation days?

A4) For workers under the Labor Standards Act, payment of leave allowances and annual paid vacation days is required, including those who work in a variety of work forms, such as part-time workers, temporary workers, and fixed-term contract workers.

We are asking companies to have a full discussion between labor and management so that workers can take time off without worry.

<Application of the Labor Standards Act to foreign workers>

Q5) Do leave allowances and annual paid vacation days under the Labor Standards Act apply to foreign workers?

A5) The Labor Standards Act applies whether you are a foreigner or not. Even if you are a foreign worker, if you are a worker affected by the Labor Standards Act, if you meet certain requirements, you will be eligible for payment of the leave allowance under the Labor Standards Act and can take annual paid vacation days.

### **3 Flexible workstyles to prevent infection (telework, staggered commuting)**

<Application of telework>

Q1) I want to telework to prevent transmission of the new coronavirus. What should I do?

A1) If your company has a telework system, you can conduct telework within the scope of that system.

For this reason, first check rules such as the work rules of the company and talk with your company.

The Ministry of Health, Labour and Welfare has established a telework portal site that centralizes information related to telework, and provides various information for the introduction and utilization of telework, such as a consultation desk for telework and Q&A about telework. Please refer to it.

Telework portal site

<https://telework.mhlw.go.jp/>

<Utilization of staggered commuting>

Q2) I would like to use a staggered commute to prevent transmission of the new coronavirus. What should I do?

A2) Workers and employers can agree to change the work start and end times, we ask for to have sufficient discussions between labor and management regarding the details of staggered commutes.

In addition, there is a flextime system in which the start and end times are left to the worker's discretion. This system divides the working hours of the day into a time period when you must work (core time) and a time period when you can come to or leave the office (flexible time) during that period. Note that a core time is not always required, so it is possible to it completely flexible. For details on the flextime system and introduction procedures, refer to the following URL.

Easy-to-understand explanation of flextime system & introduction guide

<https://www.mhlw.go.jp/content/000476042.pdf>

#### **4 Workers' compensation**

Q1) If a worker gets COVID-19, are they eligible for workers' compensation insurance benefits?

A1) Workers' compensation insurance benefits are available if the illness was caused from actions during work or commuting.

For more information, please contact the Labor Standards Supervision Office with jurisdiction over your workplace.

[List of Prefectural Labour Bureaus and Labor Standards Supervision Offices](#)

#### **5 Injury and sickness allowance under the Health Insurance Act, etc.**

Q1) If I take days off from my company due to being infected with the new coronavirus, will I be paid an injury and sickness allowance?

A1) If you are infected with the new coronavirus and are unable to work because of medical treatment, as in the case for other diseases, if you are covered by employee insurance, you will be paid the amount equivalent to two-thirds of the average daily standard remuneration for the last

twelve months from the day three days after the day when it is no longer possible to work due to medical treatment as an injury and sickness allowance.

The period in which the employee was unable to work includes the period in which they were treated at home due to fever or other symptoms. In addition, even if the employee is unavoidably unable to visit a medical institution and does not have a written opinion from a doctor, a certificate from the employer may show that the employee is unable to work.

For those who are enrolled in National Health Insurance, some municipalities may provide an allowance for injury and sickness to employees who are infected with the new coronavirus, etc., according to difference ordinances. Check with your insurer for details on specific application procedures.

## **6 Other (If nursery schools are temporarily closed, support for parents taking time off due to temporary closure of elementary schools, etc., if employer does not allow time off)**

<Childcare>

Q1) The nursery school where my children go to was temporarily closed. What should I do?

A1) From the perspective of preventing transmission to children and preventing the spread of infection in the community, we ask for your understanding and for you to consult with your employer and ask for their understanding so that you can telework or take time off.

In addition, if you are in a job with strong social demands such as a medical occupation and need to provide childcare for your child, please consult with municipalities about the possibility of utilizing childcare.

<Support for parents to take days off due to temporary closure of elementary schools, etc.>

Q2) What kind of support is available for employees working at companies to take time off to take care of children after the temporary closure of elementary schools, special needs schools, etc. due to the new coronavirus?

A2) A subsidy (up to 8,330 yen per day) will be provided for all wages paid during the leave to companies that provided paid leave (excluding statutory annual paid vacation days) between 2/27 and 6/30 for employees (regular and non-regular) to take care of children who go to elementary schools, special support schools, kindergartens, nursery schools, certified centers for early childhood education and care, etc. that are temporarily closed.

[Click here for details](#)

Leaflet “Subsidy to address temporary closure of elementary schools, etc. due to new coronavirus”

<https://www.mhlw.go.jp/content/000604068.pdf>

In addition, the following support is available in each municipality for those who are looking for

temporary childcare. For more information, please contact the department in charge of children and child-rearing support in your municipality.

Leaflet “For those looking for temporary childcare facilities”

<https://www.mhlw.go.jp/content/000604069.pdf>

<If employer does not allow time off>

Q3) I would like to take time off when I have cold symptoms such as fever, but my employer does not allow time off for this. What should I do?

A3) If you have cold symptoms such as a fever, we are asking companies to have workers not come to work. For this, it is necessary to have understanding in the company and all of society, and it is important to create an environment where employees can take time off, so we ask for your cooperation.

In addition, if a worker requests annual paid vacation days, even if the purpose of using them is to treat symptoms of a cold such as fever, the employer must grant it in principle.

Furthermore, because employers are required to give necessary considerations (so-called duty of care) so that workers can work while ensuring the safety of their lives and bodies, it is desirable that sufficient discussions be held between labor and management.

<Application to foreign workers>

Q4) Can foreigners also receive the support for parents with the temporary closure of elementary schools, etc. in Q2?

A4) Foreign workers are also eligible if they are employed by the employer.

<Extending childcare leave when planning to return to work from childcare leave, but requested to refrain from sending child to nursery school>

Q5) I had planned to return to work after putting my child in a nursery school, but the municipality requested that I refrain from sending them to daycare. So, I decided not to leave them in daycare for the time being. In such cases, is it possible to extend childcare leave?

A5)

<When child is under 1 year old>

If you are currently on childcare leave, you may apply for a one-time extension of the planned end date of your childcare leave (up to the age of one (\*1)), regardless of the reason (\*2). By law, you are required to apply at least one month in advance, but please discuss this with your employer.

In addition, employees who have already returned to work after taking childcare leave may also apply again for childcare leave (up to the age of one (\*1)).

(\*1) When both parents take childcare leave, up to one year and two months of childcare leave (plus maternity/paternity leave) if certain requirements are met.

(\*2) It is possible to apply for a postponement from when the child is between one year old and one year and six months old to when they are from one year and six months old to two years old in the same way.

<When the child turns 1 year or 1 year and 6 months old>

If your child turns one year or one year and six months old, you can apply for childcare leave up to one year and six months if your child is one year, or up to two years old if your child is one year and six months old.

In any of these cases, the employer cannot refuse the worker's request. In addition, childcare leave benefits will be paid.

(Reference) Requirements for childcare leave based on the Child Care Leave Act

- As a general rule, childcare leave can be taken until the child reaches the age of one year old.
- When the child reaches one year of age, childcare leave is available for the period from the day after the child turns one year old to the day the child turns one year and six months old, if any of the following conditions apply.

(1) When the worker or their spouse is taking childcare leave on the day the child turns one year old

(2) When it is recognized that the absence from work is particularly necessary even after the age of one year old, such as being unable to enter a nursery school

- Furthermore, when the child reaches one year and six months of age, childcare leave is available from the day after the child turns one year and six months old to the day the child turns two years old, if any of the following conditions apply.

(1) When the worker or their spouse is taking childcare leave on the day the child turns one year and six months old

(2) When it is recognized that the absence from work is particularly necessary even after the age of one year and six months old, such as being unable to enter a nursery school

<Extension of childcare leave for those who voluntarily refrain from sending children to nursery school>

Q6) I had planned to return to work after putting my child in a nursery school, but even though the municipality has not requested I refrain from sending them to nursery school, I decided not to leave them in nursery school to prevent them from catching the virus. In such cases, is it possible to extend childcare leave?

A6)

If you are currently on childcare leave, you may apply for a one-time extension of the planned end date of your childcare leave (up to the age of one (\*)), regardless of the reason. By law, you are required to apply at least one month in advance, but please discuss this with your employer.

Employers cannot refuse the worker's request.

In addition, childcare leave benefits will also be paid for the period of leave after the postponement.

(\*) When both parents take childcare leave, up to one year and two months of childcare leave (plus maternity/paternity leave) if certain requirements are met.

In addition, it is not possible to apply for childcare leave again after returning from childcare leave, or to take childcare leave after a child turns one year or one year and six months old, as this does not meet the requirements of the Child Care Leave Act.

(Reference) Requirements for childcare leave based on the Child Care Leave Act

- As a general rule, childcare leave can be taken until the child reaches the age of one year old.
- When the child reaches one year of age, childcare leave is available for the period from the day after the child turns one year old to the day the child turns one year and six months old, if any of the following conditions apply.
  - (1) When the worker or their spouse is taking childcare leave on the day the child turns one year old
  - (2) When it is recognized that the absence from work is particularly necessary even after the age of one year old, such as being unable to enter a nursery school
- Furthermore, when the child reaches one year and six months of age, childcare leave is available from the day after the child turns one year and six months old to the day the child turns two years old, if any of the following conditions apply.
  - (1) When the worker or their spouse is taking childcare leave on the day the child turns one year and six months old
  - (2) When it is recognized that the absence from work is particularly necessary even after the age of one year and six months old, such as being unable to enter a nursery school

<About dismissal and termination of employment>

Q7) What should I do if my company asks me to resign or I am about to be fired because of the new coronavirus?

A7) For questions and consultations regarding dismissal and termination of employment, please contact your nearest Prefectural Labour Bureau or Labor Standards Supervision Office, as well as the [Special Labor Consultation Window for New Coronavirus Infections \(\\*\)](#) or the Working Conditions Consultation Hotline (0120-811-610).



In addition, even if the company asks employees to resign because of the new coronavirus, it is up to workers to decide whether or not to comply, and resignation requests that interfere with workers' free decision-making may constitute an illegal violation of their rights.

Moreover, even if a company intends to dismiss a worker, the dismissal is not recognized immediately, and there are the following rules according to labor-related laws and regulations.

- (1) Dismissal is prohibited (Article 19 of the Labor Standards Act) during the period of absence from work due to injury or illness and for 30 days thereafter, and during the period of absence from work for women before and after childbirth and for 30 days thereafter in accordance with Article 65 of the Labor Standards Act.
- (2) Even if the above (1) does not apply, dismissal shall be invalid as an abuse of that right if it lacks objectively reasonable grounds and is not recognized as reasonable under conventionally accepted norms (Article 16 of the Labor Contracts Act).

In addition, with regard to dismissal for liquidation (dismissal to reduce surplus personnel for business reasons), judicial precedents have been used to determine the validity of dismissals taking into account the following four matters.

- 1) Necessity of reorganizing the workforce
  - 2) Have measures been taken to avoid dismissal to the greatest extent possible?
  - 3) Are the selection criteria for those being dismissed objective and reasonable?
  - 4) Have labor unions been consulted and have explanations been given to workers?
- (3) For fixed-term labor contracts, dismissal during the contract period is prohibited unless there are unavoidable reasons. The validity of dismissal is judged more strictly than dismissal with labor contracts with no fixed term (Article 17 Paragraph 1 of the Labor Contracts Act).
  - (4) Employers must give 30 days' notice or pay an average wage (dismissal allowance) for 30 days or more when dismissing workers (Article 20 of the Labor Standards Act).

Q8) What should I do if I am about to be terminated from a fixed-term labor contract because of the new coronavirus?

A8) For questions and consultations regarding dismissal and termination of employment, please contact your nearest Prefectural Labour Bureau or Labor Standards Supervision Office, as well as the [Special Labor Consultation Window for New Coronavirus Infections \(\\*\)](#) or the Working Conditions Consultation Hotline (0120-811-610).

In addition, even if a company decides to terminate a fixed-term labor contract because of the new coronavirus, it is not immediately allowed to do so, and there are the following rules according to labor-related laws and regulations.

- (1) For dismissals, when a worker with a fixed-term contract applies for the renewal of their labor contract, the employer shall be deemed to have accepted the application under the same working conditions as before if the employer lacks any of the following reasons and it is not deemed to be reasonable under socially accepted norms (Article 19 of the Labor Contracts Act).
  - a. A fixed-term labor contract that has been repeatedly renewed in the past and whose termination is conventionally accepted as equivalent to dismissal of a fixed-term labor contract
  - b. A worker who is found to have reasonable grounds for expecting a fixed-term labor contract to be renewed at the expiration of the contract term of the fixed-term labor contract
- (2) When not renewing fixed-term labor contracts (limited to workers whose fixed-term labor contracts have been renewed three or more times or who have been continuously employed for more than one year. Except for those contracts that expressly state in advance that such contracts will not be renewed), notice of termination of employment must be given at least 30 days prior to the date of expiration of the term of the contract (Article 2 of the Standards on Conclusion, Renewal and Termination of Employment Contracts).
- (\* With respect to dismissal of workers under fixed-term contracts, an employer may not dismiss a worker until the contract period expires unless there are unavoidable reasons to do so. (Article 17 Paragraph 1 of the Labor Contracts Act).