

## [7] Equal Employment

### Promotion, etc. of measures to secure equal Opportunity and treatment for men and women at Employment

#### Overview

The Equal Employment Opportunity Act prohibits discrimination against workers on the basis of gender in terms of recruitment, employment, assignment, promotion, demotion, training, specified welfare program, change in job type and employment status, encouragement of retirement, mandatory retirement age, dismissal, and renewal of the labor contract. The Act also prohibits indirect discrimination and disadvantageous treatment on the basis of pregnancy or childbirth, etc.

The Labor Measures Comprehensive Promotion Act set out the specific measures against power harassment to be taken in the workplace. The Employment Environment and Equal Employment Department of the Prefectural Labour Bureau provide administrative guidance to enterprises in order to ensure full compliance with the Equal Employment Opportunity Act. The Offices also respond to consultations from workers, etc. by providing advice, guidance, and recommendations in the name of the director-general of the office and by helping them settle conflicts individually through conciliation at the Equal Opportunity Conciliation Conference.

The Act on Promotion of Women's Participation and Advancement in the Workplace established an obligation for employers with 101 or more regular workers to formulate/implement the action plans and publicize information.

#### Points of the Equal Employment Opportunity Act

##### Prohibition of Discrimination on the Basis of Sex

- Prohibition of discrimination on the basis of sex at each stage of employment management (Articles 5 and 6)
  - Gender discrimination shall be prohibited in recruitment, employment, assignment (including allocation of duties and grant of authority), promotion, demotion, training, specified welfare program, change in job type and employment status, encouragement of retirement, mandatory retirement age, dismissal, and renewal of the labour contract
- Prohibition on indirect discrimination (Article 7)
  - Taking measures which apply a criterion concerning a person's condition other than the person's sex, and which is specified by Ordinance of the Ministry of Health, Labour and Welfare as measures that may cause a virtual discrimination by reason of a person's sex is prohibited except in a case where there is a legitimate reason to take such measures. [Measures specified by Ordinance of MHLW]
    - To require workers' height, weight, and physically strength when recruiting and employing workers
    - Requiring changing residences as a condition for recruitment, employment, promotion, or change in job type of workers
    - To require experience of transfer when promoting workers
  - \* Although acts other than those specified by ministerial ordinances do not constitute violation of the Equal Employment Opportunity Act, they may possibly judged as indirect discrimination in trial.
- Special provisions of measures pertaining to female workers (Article 8)
  - While prohibiting discriminatory treatment in principle due to sex, employers are not precluded from taking measures toward females only with the purpose of removing difference actually existing between males and females in employment.

##### Prohibition, etc. of Disadvantageous Treatment by Reason of Marriage, Pregnancy, Childbirth, etc. (Article 9)

- Prohibition on stipulating marriage, pregnancy, or childbirth as a reason for retirement of women workers
- Prohibition on dismissal due to marriage
- Prohibition on dismissal or give disadvantageous treatment by the reasons of pregnancy, childbirth, acquisition of maternity leave, or other reasons provided by ministerial ordinance of MHLW.
- Dismissal of women workers who are pregnant or in the first year after childbirth shall be void unless the employers prove that dismissals are not by reasons of pregnancy, etc.

##### Measures concerning sexual harassment (Article 11, 11-2)

- Obliging employers to take necessary measures in terms of employment management to prevent sexual harassment in the workplaces
- Prohibition of disadvantageous treatment of workers who have consulted their employer about harassment consultation, etc. with the employer
- The Act stipulates the responsibility of the government, employers and workers for sexual harassment in the workplace

##### Measures concerning pregnancy/ childbirth, etc. harassment (Article 11-3, 11-4)

- Obliging employers to take necessary measures in terms of employment management to prevent sexual harassment in the workplaces
- Prohibition of disadvantageous treatment of workers who have consulted their employer about harassment consultation, etc. with the employer
- The Act stipulates the responsibility of the government, employers and workers for the harassments related to pregnancy and childbirth, etc. in the workplace

##### Measures for maternal health management (Articles 12, 13)

- Obliging employers to take necessary measures in terms of employment management to prevent sexual harassment in the workplaces
- Prohibition of disadvantageous treatment of workers who have consulted their employer about harassment consultation, etc. with the employer
- The Act stipulates the responsibility of the government, employers and workers for sexual harassment in the workplace

#### Support for positive action by the government (Article 14)

- Consultation and other supports may be provided by the government for employers that take active efforts (positive action) so as to remove difference actual existing between males and females in employment

#### Relief measures for the cases of disputes between workers and employers

- Voluntary resolution of complaints from the workers of the workplace (Article 15)
- Assistance in the resolution of disputes by the director-general of Prefectural Labour Offices (Article 17)
- Conciliation at the Equal Opportunity Conciliation Conference (Articles 18 through 27)
  - Conciliation shall be commenced upon application from either party or both parties involved in the dispute.
  - Prohibition on disadvantage treatment by reasons of making requests to the Head of Bureau of labour or conciliation application, etc.

#### Guidance necessary for law enforcement

- Request for reports and provision of advice, guidance, and recommendations by the Minister of Health, Labour and Welfare or the director-general of Prefectural Labour Offices (Article 29)
- Disclosure of names of enterprises that do not comply with the recommendations of the Minister of Health, Labour and Welfare (Article 30)
- Civil fine of not more than ¥200,000 yen in case of not making a required report or making a false report (Article 33)

\* The followings are applied also to the dispatch destination; the prohibition of disadvantageous treatment to the person due to her pregnancy and childbirth, the obligation to take measures preventing the sexual harassment and harassment related to pregnancy and childbirth, the prohibition of disadvantageous treatment to the person who has performed consultation with the business owner, the national, employer and worker responsibilities as well as the obligation to take measures for maternity health care. (Articles 47-2 of the Worker Dispatching Act)

#### Key Points of the Act on Comprehensive Promotion of Labor Policies (power harassment prevention measures, etc.)

#### Measures against power harassment (Article 30-2, 30-3)

- Employers shall be obliged to take necessary measures for employment management to prevent power harassment in the workplace
- Prohibition of disadvantageous treatment of workers who have consulted their employer about harassment consultation, etc. with the employer
- The Act stipulates the responsibility of the government, employers and workers for power harassment in the workplace

#### Remedies for a dispute between a worker and an employer

- Support for dispute resolution by the director of the Prefectural Labor Office (Article 30-5)
- Conciliation in a conciliation conference aimed at settling disputes over power harassment (Article 30-6 to 30-8)
  - Conciliation begins when one or two parties involved in a dispute file an application
  - Prohibition of disadvantageous treatment to a worker who has made a complaint about harassment to the director of the prefectural labor office, filed an application for conciliation or taken other actions

#### Guidance when necessary for the law enforcement

- The Minister of Health, Labor and Welfare or the director of the Prefectural Labor Office may request reports from employers and give them advice, guidance, and recommendations. (Article 33-1, 36-1)
- In the event that companies have not complied with recommendations, the Minister of Health, Labor and Welfare may publicize their names. (Article 33-2)
- Any person who has failed to file a report requested or made a false report shall be liable to a fine not exceeding ¥200,000. (Article 41)

\*The following rules also apply to employers hiring workers on temporary contract who are dispatched from staffing agencies; obligations to take measures to prevent power harassment, prohibition of disadvantageous treatment to a worker who has made a complaint about harassment to the director of the prefectural labor office, filed an application for conciliation or taken other actions, as well as the responsibility of the government, employers and workers for power harassment in the workplace. (Articles 47-4 of the Worker Dispatching Act)

# Overview on the Act on the Promotion of Female Participation and Career Advancement in the Workplace (the section concerning private employers)

## 1. Basic policies, etc.

- ▶ The national government must establish basic policies for promoting the active participation of women in the workplace and their career advancement. (Cabinet decision).
- ▶ Taking into consideration the basic policies above, local governments (prefectures, municipalities) must formulate promotion plans within their relevant areas (obligation to make efforts).

## 2. Plan of Action for Employers, etc.

\*Employers with 101 or more regular workers must comply with (1) and (2) below: **obligation**. Employers with 100 or less workers are obliged to make efforts: **obligation to make efforts**.

### (1) Encouraging PDCA in corporations to promote efforts for women's advancement in the workplace

→ Assessing the situation and analyzing issues to formulate action plans, notifying the Minister of Health, Labour and Welfare of the plans and publicizing them  
(Formulating and publishing action plans in line with the guidelines (including disclosing information to workers))

\*Employers with 301 or more regular workers are obliged to identify wage gaps between men and women

✎ Required items to be described in the action plan

- ▶ Goals (quantitative targets related to the items specified by the Ministerial Ordinance)
- ▶ Details of efforts ▶ Implementation period ▶ Planning period

### (2) Encourage employers to publicize information about women's advancement in the workplace to contribute to women's career choices

→ Publication of information on women's advancement in the workplace

✎ Publication of information (specified by the Ministerial Ordinance)

① providing work opportunities for female workers and ② establishing a work environment that allows for a proper balance between work and family

- ▶ Employers with 301 or more regular workers (obligation)  
At least two items including a gender pay gap of ① and one item of ② (at least three items in total) are published:
- ▶ Employers with 101 or more and 300 or less regular workers (obligation)  
Publication of one or more from all items in ① and ②
- ▶ Employees with 100 or less regular workers (obligation to make efforts)  
Publication of one or more from all items in ① and ②

### (3) Granting incentives through the certification system

→ Excellent corporations are certified and allowed to use the certification seals "Eruboshi" and "Platinum Eruboshi"

✎ Certification criteria are specified by the Ministerial Ordinance with consideration of the characteristics of each industry and corporate scale.

### (4) Measures to ensure performance

→ Collection of reports and issuance of advice, guidance, and recommendations by the Minister of Health, Labor and Welfare (or the director of the prefectural labor office)

In the event that employers have failed to follow recommendations on information disclosure, their names can be published.

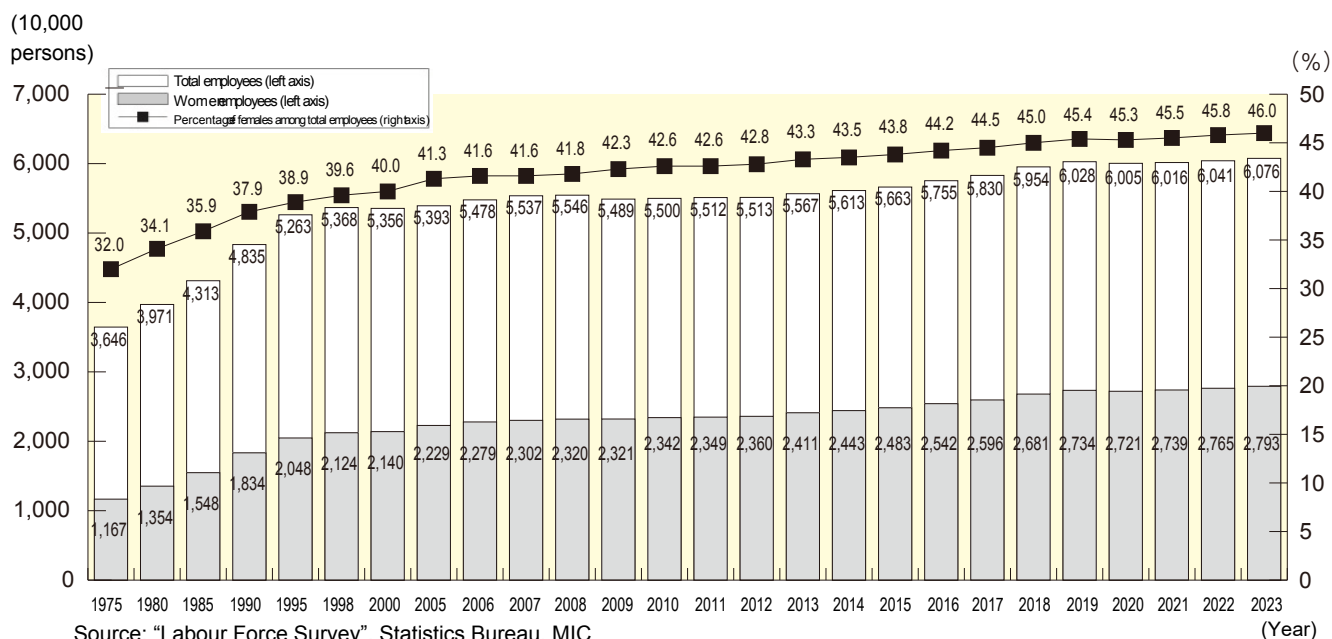


## 3. Others (enforcement date, etc.)

- ① When the Act was enacted: Promulgated and enforced on September 4, 2015 (The section concerning the Plan of Action for Employers, etc. came into force on April 1, 2016.) Ten-year temporary legislation (up to the end of FY 2025)
- ② When the Act was revised: Promulgated on June 5, 2019, and enforced on June 1, 2020 (Assessed the situation and set targets on April 1, 2020, and broadened application to employers with 101 to 300 regular workers on April 1, 2022)
- ③ Reviews take place five years after the enforcement of the revised act (June 1, 2020).
- ④ Revised ministerial ordinance (Employers with 301 or more regular workers are obliged to grasp and publicize gender pay gaps: publicized and enforced on July 8, 2022)

## Detailed Data 1

## Changes in Number of Employees (all industries)

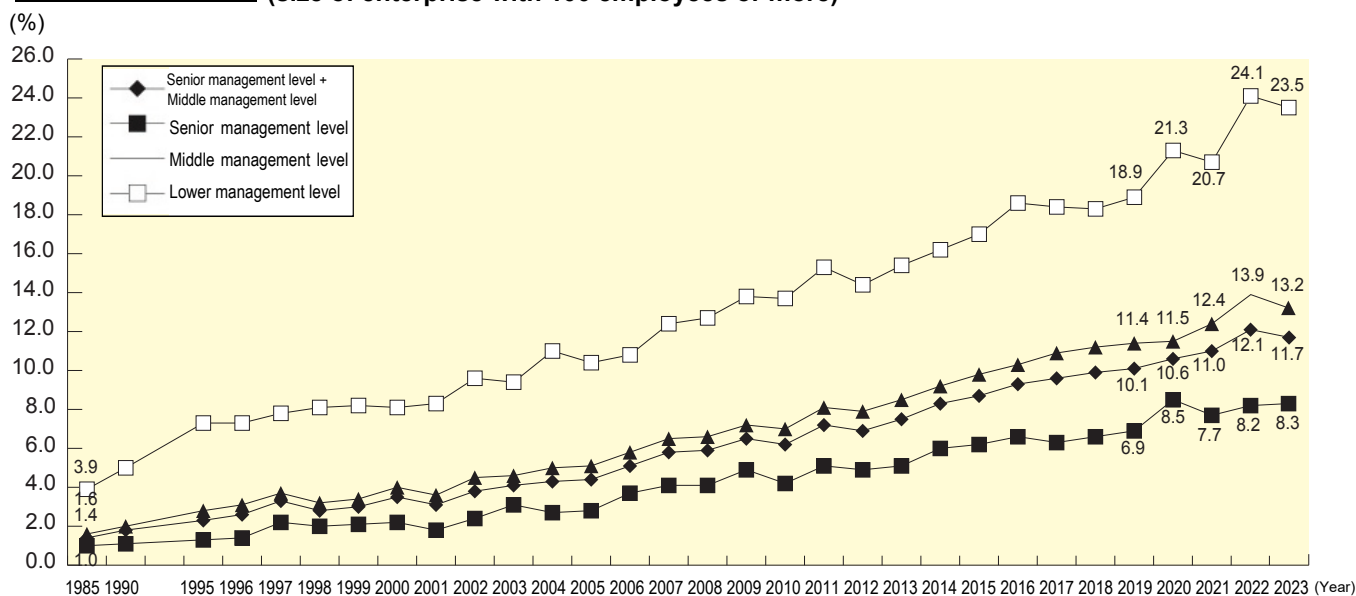


Source: "Labour Force Survey", Statistics Bureau, MIC

1. The figures from 2015 to 2021, except the ratios, are replaced with the figures for the time-series connection retroactively or corrected based on the benchmark population of the 2020 census standard. In addition, the figures from 2005 to 2009 are based on the benchmark population of the 2010 census standard, and the figures from 2010 to 2014 are figures for the time-series connection based on the benchmark population of the 2015 census standard.
2. The figures for 2011 are complementary estimates using related statistics, etc. due to the impact of the Great East Japan Earthquake.

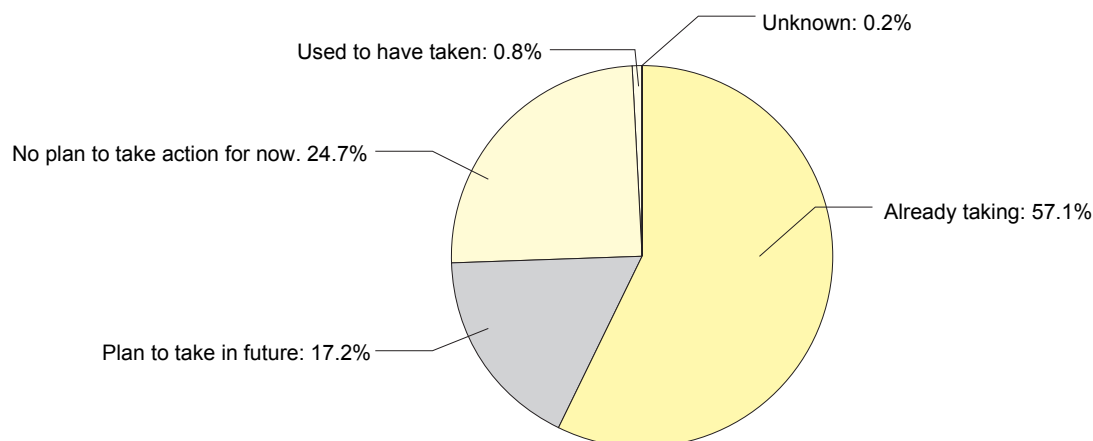
## Detailed Data 2

## Trends of female share in managerial positions by the class of position (size of enterprise with 100 employees or more)



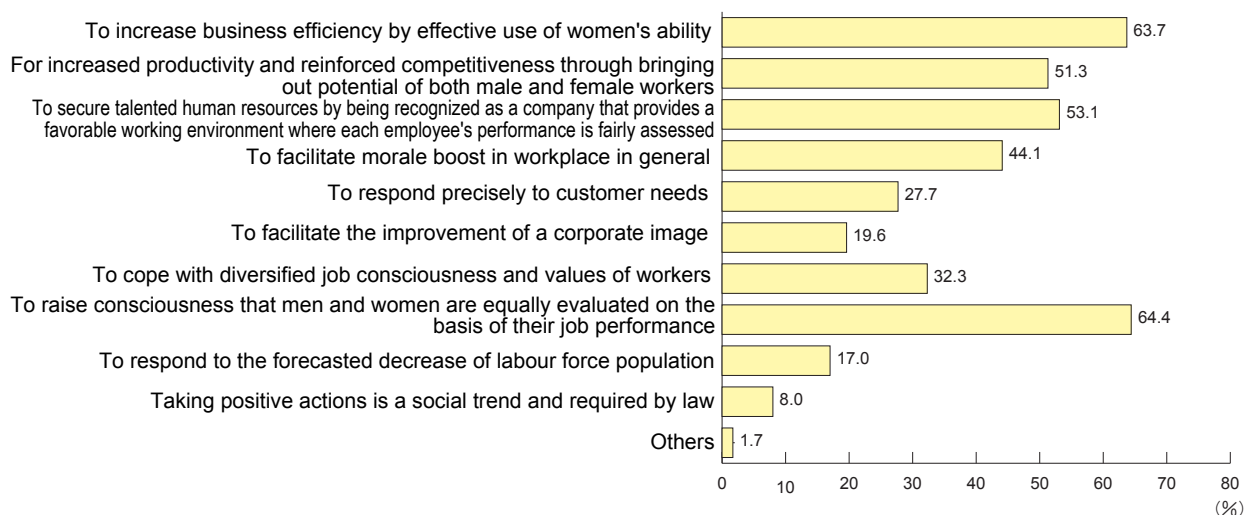
Source: Created by Employment Environment and Equal Employment Bureau with reference to the "Basic Survey on Wage Structure", Director-General for Statistics, Information System Management and Industrial Relations, MHLW

### Detailed Data 3 Companies that Take Positive Actions



Data: "FY2014 Basic Survey of Gender Equality in Employment Management", Employment Environment and Equal Employment Bureau, MHLW

### Detailed Data 4 Percentage of Enterprises by Reason Why Promotion of Positive Actions is Required



Source: "FY2013 Basic Survey of Gender Equality in Employment Management", Employment Environment and Equal Employment Bureau, MHLW  
(Companies "currently dealing with positive action" and companies who "will deal with positive action in the future=100.0%")

# Promotion of Measures to Support Balancing Work and Child Rearing/Family Care

## Overview

Q: What is the purpose of the Act?  
A: The purpose of this Act is to promote measures to support balancing work and child rearing/family care, and to improve the employment environment for workers taking such leave.

Q: What is the scope of the Act?  
A: This Act applies to employers of workers who are engaged in business activities.

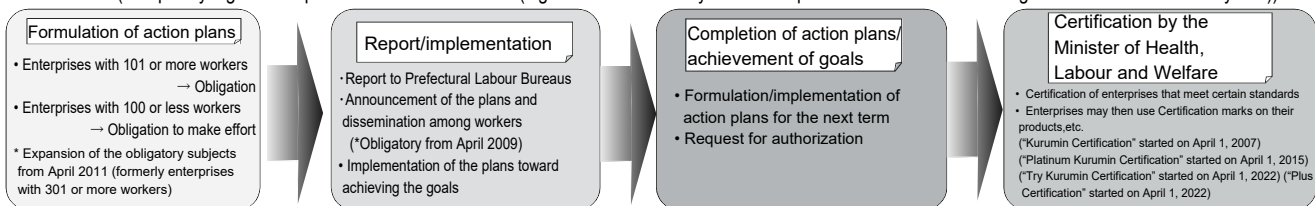
Q: What are the main provisions of the Act?  
A: The main provisions of the Act include: (1) Childcare leave, (2) Parental leave, (3) Child nursing leave, (4) Nursing care leave, (5) Restriction on non-regular work, overtime work and late-night work, (6) Measures for short-time work, etc., (7) Take measures to individually post the information, confirm intentions, and improve the employment environment to make it easier for workers take child care leave, (8) Publicly release the status of childcare leave taken, (9) Prohibition of disadvantageous management, etc., (10) Ensuring effectiveness.

## Outline of the Child Care and Family Care Leave Act

<b>Childcare leave</b> <ul style="list-style-type: none"><li>○ Guarantee the right to take childcare leave until the child reaches one year old (up to 2 years old under certain conditions, such as being unable to enroll the child in nursery school (One year before the child reaches 1 year and 2 months in case both parents take childcare leave, ) (Papa Mama Ikukyū Purasu, "Mother and Father Childcare Leave Plus"))</li><li>○ As a rule, the leave can be split and taken twice until the child reaches one year old.</li></ul>	<b>Nursing care leave</b> <ul style="list-style-type: none"><li>○ Guarantee the right to take nursing care leave up to 3 times within a total of 93 days for one family member</li><li>* A fixed-term contract worker can: take leave if it is not obvious that their labor contract (renewed contract if they are renewed) will expire by the time the child reaches one and a half years old (Nursing care and parental leave [childcare leave at birth for fathers] are for a similar purpose.)</li></ul>
<b>Parental leave (Childcare Leave at Birth for Fathers)</b> <ul style="list-style-type: none"><li>○ Taking parental leave (childcare leave at birth for fathers) for up to four weeks within eight weeks after the childbirth is a guaranteed right</li><li>※ Leave can be split into two periods and taken separately from childcare leave</li></ul>	
<b>Child nursing leave</b> <ul style="list-style-type: none"><li>○ Allowed to take up to 5 days a year in case of raising a preschool child (in a day or a half day unit) (10 days a year for 2 children or more)</li></ul>	<b>Nursing care leave</b> <ul style="list-style-type: none"><li>○ Allowed to take up to 5 days a year for nursing care (10 days for 2 more children) (a day or a half day unit)</li></ul>
<b>Restriction on non-regular work, overtime work and late-night work</b> <ul style="list-style-type: none"><li>○ Non-regular work is restricted when a worker taking care of a child under 3 years of age or a family member</li><li>○ Overtime work exceeding 24 hours per month and 150 hours per year is restricted when a worker taking care of a child prior to the commencement of elementary school or a family member</li><li>○ Late-night work (from 10 p.m. to 5 a.m.) is restricted when a worker taking care of a child prior to the commencement of elementary school or a family member</li></ul>	
<b>Measures for short-time work, etc.</b> <ul style="list-style-type: none"><li>○ Obligate measures for short-time work (6hours a day as a rule) for a worker raising a child aged 3 years or under</li><li>○ Obligate employers to take any measure that a worker providing nursing care can utilize twice or more in 3 years, as follows: (1) Short-time work system (2) Flextime system (3) Advance/delay of starting/ending time (4) Support measures for nursing care expenses</li></ul>	
<b>Take measures to individually post the information, confirm intentions, and improve the employment environment to make it easier for workers take child care leave.</b> <ul style="list-style-type: none"><li>○ Obligate employers to individually post information on systems, such as the childcare leave system, and confirm intentions on taking leave when workers notify employers of their or spouses' pregnancy or childbirth.</li><li>○ Obligate employers to improve their employment environments, such as training and consulting service counters, to smoothly process requests for childcare and parental leave (childcare leave at birth for fathers).</li></ul>	
<b>Publicly release the status of childcare leave taken</b> <ul style="list-style-type: none"><li>○ Obligate employers with more than 1,000 regular workers to publicly release once a year the status of childcare leave taken by men.</li></ul>	
<b>Prohibition of disadvantageous management, etc.</b> <ul style="list-style-type: none"><li>○ Prohibit an employer from conducting disadvantageous management such as dismissal due to taking a childcare leave, etc.</li><li>○ Obligate employers to take measures to prevent bosses or colleagues from harassing those who take childcare leave, etc.</li></ul>	
<b>Ensuring effectiveness</b> <ul style="list-style-type: none"><li>○ Support/mediation for complaint-handling/dispute resolution</li><li>○ Publicly release of the establishments that do not comply with the recommendations</li></ul>	

\*The provisions of the Childcare and Nursing Care Leave Act are the minimum standards. Employers can provide conditions that are better than the Act.

## Formulation/Implementation of Action Plans for Enterprises in Accordance with the Act on Advancement of Measures to Support Raising Next-Generation Children (Temporary legislation up to the end of March 2025 (legislation valid for 10 years from April 2005 to March 2015 being extended for another 10 years))



### Action plans (general business operator action plans)

[Action plans]  
Plans formulated by enterprises in accordance with the Act on Advancement of Measures to Support Raising Next-Generation Children in helping to balance the work and childcare of their workers

[Matters provided in action plans]  
Period of action plans (approximately two to five years, after taking into consideration the actual situation of the respective enterprises)

[2] Goals to be achieved  
[3] Measures used to achieve goals and implementation period

[Matters concerning the content of action plans]  
1 Matters concerning the development of employment environments  
(1) Efforts mainly made for workers raising children  
(2) Efforts for workers including those not raising children  
2 Other measures to support the development of the next-generation Efforts other than employment environment and not limited to workers of enterprises  
= Example action plans =  
(Example 1) Raising the level of child care leave acquisition within the period of action plan as follows.  
Male: xx or more persons taking child care leave per year,  
Females: acquisition rate of xx% or more  
<Measures>  
dd/mm/yyyy Conduct training for managers  
dd/mm/yyyy Hold seminars on returning to workplaces for regular employees on child care leave who are willing to participate  
(Example 2) Establish a "no overtime day" each month.  
<Measures>  
dd/mm/yyyy Establish a discussion group in each department  
dd/mm/yyyy: Implement a campaign via company newsletter, etc.

### Report status (as of the end of September 2023)

98.4% of enterprises with 101 or more workers  
98.6% of enterprises with 301 or more workers  
98.3% of enterprises of 101-300 workers  
Number of enterprises of all sizes 106,883

Certification status (as of the end of September 2023)  
certified enterprises (by Kurumin) 4,313  
Of which corporations certified of Platinum Kurumin 589  
Try Kurumin-certified companies 2



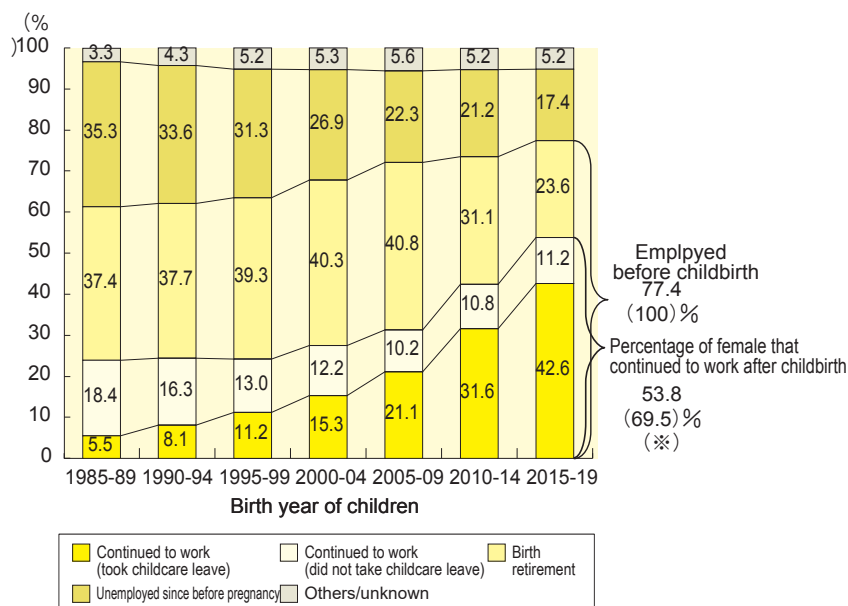
### Certification standards

- The period of the action plans to be 2-5 years.
- Action plans are implemented and the goals set in the action plans achieved.  
Must satisfy the following ① or ② requirements:  
① Within the planned period, the percentage of male workers taking childcare leave, etc.:  
Kurumin Certification 10% or more  
Platinum Kurumin Certification 30% or more  
Try Kurumin Certification 7% or more  
② Within the planned period, the percentage of male workers taking childcare leave, etc. and the percentage utilizing their company's original leave system:  
Kurumin Certification 20% or more  
Platinum Kurumin Certification 50% or more  
Try Kurumin Certification 15% or more  
One or more workers took childcare leave.
- The percentage of female workers taking childcare leave, etc. was 75% or more, etc.
- The public release of the percentage of male and female workers taking childcare leave on the MHLW's website "Work-Family Life Balance Support Square."  
(only for the Kurumin certification)
- "Measures equivalent to a childcare leave system or measures to reduce work hours" for workers who have children from three years old to before entering primary school were taken.
- The average of overtime exceeding legal working hours and legal holidays for full-time workers shall be less than 45 hours each month.
- There shall not be workers who work 60 hours or more on average monthly overtime exceeding the legal working hours.
- ☆ Enterprises that satisfy standards required for Kurumin certification, etc. can acquire Plus certification if they satisfy standards such as establishing a leave system for fertility treatment and a support system to help workers balance treatment with work and meet other criteria.

### Detailed Data 1

### Percentage of Females who Continued to Work after Child Birth

(by years of child birth, composition of employment status before and after the first birth)



Source: "16th Japanese National Fertility Survey (Survey on Married Couples)", National Institute of Population and Social Security Research

(\*) The figures in parentheses indicate the percentage of females that continued to work after childbirth calculated by setting those employed before childbirth to be 100.

### Detailed Data 2

### Percentage of Workers Taking Child Care Leave by Gender

(Unit: %)

	Percentage of female workers who took child care leave among all female workers who had child birth	Percentage of male workers who took child care leave among all male workers whose spouses had child birth
FY2008	90.6	1.23
FY2009	85.6	1.72
FY2010	83.7 [84.3]	1.38 [1.34]
FY2011	[87.8]	[2.63]
FY2012	83.6	1.89
FY2013	83.0	2.03
FY2014	86.6	2.30
FY2015	81.5	2.65
FY2016	81.8	3.16
FY2017	83.2	5.14
FY2018	82.2	6.16
FY2019	83.0	7.48
FY2020	81.6	12.65
FY2021	85.1	13.97
FY2022	80.2	17.13

Source: "Basic Survey of Employment Management of Women", Employment Environment and Equal Employment Bureau, MHLW

(Note) The percentages for FY2010 and FY2011 in square brackets indicate nationwide figures excluding Iwate, Miyagi, and Fukushima Prefectures.

### Detailed Data 3

### Percentage of Workers Taking Family Care Leave by Gender

(Unit: %)

	Total of males and females	Males	Females
FY2022	1.6	1.6	1.6

\* The percentage of workers who took family care leave among all workers providing family care

Source: "Employment Status Survey" 2022, Ministry of Internal Affairs



## Measures for non-regular employees

### Overview

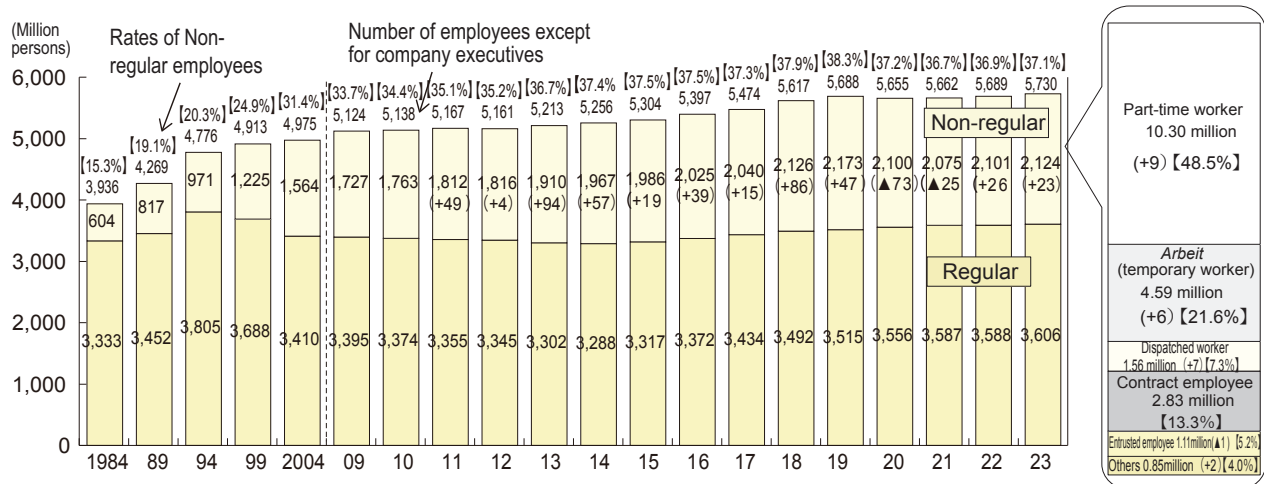
### Changes in Numbers of non-regular employees

In recent years, the number of non-regular employees such as part-time workers, contract employees, and dispatched workers has been increasing as a whole, but there are issues such as unstable employment, low wages, and few opportunities for ability development.

### Detailed Data

### Changes in Numbers of Regular and Non-Regular Employees

- The number of regular employees was 36.06million (average in 2023; hereinafter the same). The number **increased for the nine successive year** as compared with the previous year (+180,000 people).
- The number of non-regular employees had been increased since 2010. It decreased in 2020 and 2021, but it has increased since 2022 (+230,000 people).
- The ration of the non-regular employees to employees except company executives was **37.1%**. It has increased by 0.2 points compared with the previous year.



Source: Until 1999, Ministry of Internal Affairs and Communications (MIC) "Labour Force Survey (Special Survey)" (February Survey) Historical data 9, and in and after 2004, MIC "Labour Force Survey (Detailed Tabulation)" (Annual Average) Historical data10

- (Note) 1. The figures for 2009 were calculated retroactively by switching the estimated population based on the confirmed population of the 2010 census (excluding the rates).
2. The figures for 2010 - 2014 were calculated retroactively by switching the estimated population based on the confirmed population of the 2015 census (excluding the rates).
3. The figures for 2015 - 2021 are calculated retroactively based on the confirmed population counted in the 2020 census (new standard) to convert it to the estimated population (excluding the figures in percentages).
4. The figures for 2011 are calculated using supplementary estimates for the three prefectures affected by the earthquake and tsunami in the same year. (2015 census standards)
5. The classification of employment form is based on the "naming" at the place of employment.
6. Regular employee: A person whose naming at the place of employment is "regular employee / staff".
7. Non-regular employee: A person whose naming at the place of employment is "Part-time worker", "Arbeit (temporary worker)", "Dispatched worker from temporary labour agency", "Contract employee", "Entrusted employee", or "Other".
8. The figures shown in percentages represent the share of non-regular employees in the sum of the numbers of regular and non-regular employees.



## Eradication of Irrational Gaps in Treatment between Regular and Non-regular Employees (Equal Work Equal Pay)

With a view to making it possible for anyone to “choose” a different and flexible work style, eliminate irrational gaps in treatment between regular and non-regular employees working for a same employer so that people can work, being satisfied with their treatment irrespective of the employment types they choose.

### Ban on irrational gaps in treatment (Article 8 and 9 of Part-Time/Fixed-Term Employment Act)

- The law prohibits irrational gaps in any rules on the treatment including those for base pay and bonus between regular employees and part-time / fixed-term employees working for a same employer.
- Article 8 and Article 9 stipulate the definition of balanced treatment (Art. 8) and equal treatment (Art. 9), which are to be considered when making court decisions.

**Balanced treatment:** With respect to **each rule on treatment**, in light of the **nature and design of each**, employers are **not allowed to neglect gaps that are deemed irrational** after taking into consideration any of the following conditions as appropriate, ①**duties** ②**allowance levels in changing duties and the location of workplace (employment management structure)** ③**other conditions**

**Equal treatment:** Employers are **not allowed to neglect discriminatory treatment** on the ground that a worker is a part-time or fixed-term employee when **the following conditions are equal**. ①**duties** ②**allowance levels in changing task duties and the location of workplace**

※ The term, “duties”, includes the work contents and the responsibility level of the duties

※ Other conditions can include achievement, performance, experience, and the details of labor management negotiations.

### Obligation to explain the rules on treatment to workers (Article 14 of Part-Time/ Fixed-Term Employment Act)

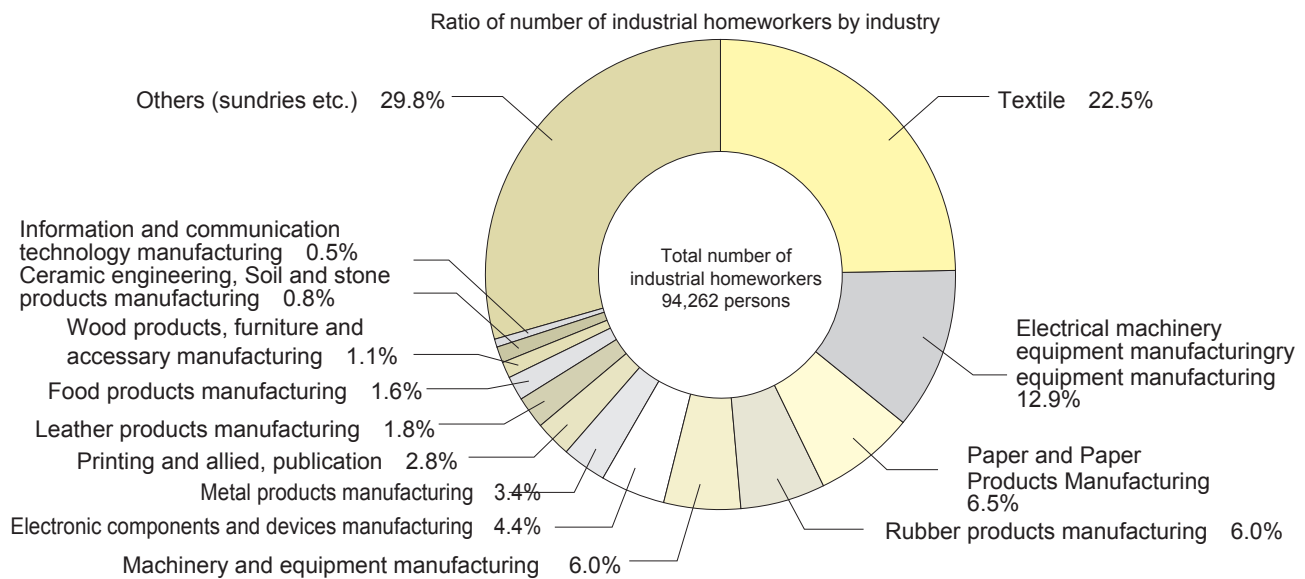
- Non-regular employees are entitled to an explanation from their employers about the specifics of and the reasons for the difference in treatment between regular and non-regular employees. Employers are required to give an explanation when their non-regular employees ask them to do so.
- ◆ An equivalent stipulation for dispatched workers is provided in the Worker Dispatch Act
- ◆ Equal work equal pay rules took effect on April 1, 2020. (The Part-Time/ Fixed-Term Employment Act has not been applied to SMEs until April 1, 2021)

## Industrial Homework and employed or self-employed type telework measures

### Overview

### Outline of Measures for Industrial Homework

Measures such as the delivery of the industrial homework record book, the decision and announcement of the minimum industrial homework wages, and securing the health and safety are promoted.



Source: "Survey of Industrial Homework" (October 2023), Employment Environment and Equal Employment Bureau, MHLW

# Telework Guideline Summary

## Points to note when introducing teleworking

- To promote teleworking, it is effective to consider promotion of Work Style Reform. Employers are required to provide appropriate labor management and qualified telework so that workers can work free of anxiety.
- For promoting teleworking, the review on current labor management enables improved productivity. It is a benefit not only for telework workers, but also for companies.
- It is important for labor and management to fully discuss in advance and set up rules to introduce and implement teleworking smoothly and properly.

### Target tasks of telework

- Businesses or occupations in which it is generally difficult to introduce telework may be conducted only in part by telework. It is desirable to try to change the mind of the management or review how to implement tasks.
- It is important to not only focus on tasks for workers working in offices.

### Target group of telework

- When choosing target groups for telework, it is necessary not to eliminate groups because of their employment style such as regular workers versus non-regular workers.
- As it is difficult to separate life from work when working at home, working at the satellite office or mobile commuting can be considered.
- It is desirable to smoothen communication, particularly for new workers, experienced workers and workers immediately after their transfer.

### Desirable strategies for its introduction

- It is effective to forbid the unnecessary stamping or signing of documents, promote paperless documentation and computerize approval procedures. It is desirable to review work procedures including awareness-raising in the workplace.
- It is desirable to take measures to promote appropriate communication based on the situation of workers and companies while the work style is changing.
- It is necessary in the management of companies to understand the necessities of telework and provide guidelines to take measures for the whole company.

## Points to note for the management of labor

### Performance appraisal system for telework

- It is standard for companies to develop measures for performance appraisals from the point of view of what work they expect from workers and how it will reflect in their treatment.
- Training, etc. for the evaluators of performance appraisals can be considered to be held.
- It is not an appropriate performance appraisal if workers are evaluated negatively on the grounds that they could not respond to mails, etc. outside working hours.
- It is desirable to develop measures for performance appraisals for telework that differentiate from the measures for performance appraisals for office work so as to not limit everyone conducting telework.
- It is not an appropriate performance appraisal if workers are evaluated positively on the grounds that they commute to the office because it can discourage telework.

### Costs of telework

- It is not desirable for telework to be a burden for workers.
- As for how to deal with costs, etc. for each company, it is desirable for labor and management to fully discuss in advance who will bear the costs of teleworking and to set up rules for each company and specify them in the work regulations, etc.
- The expenses for telework can be paid for provided they are calculated rationally and objectively.

### Human resource development in teleworking situations/human resource development for effective implementation of telework

- Building online capacity is useful due to its own benefit.
- It is effective to do training, etc. at the first stage of telework introduction or when introducing new machines.
- Proper management is important so that workers are able to work independently and it is desirable for management to improve their management capacity.

## Drawing up the rules for telework and public awareness

- Even when teleworking, the Labor Standards Act, the Minimum Wage Act, the Industrial Safety and Health Act, the Industrial Accident Compensation Insurance Act, and other labor standard related laws and regulations also apply for workers under the Labor Standards Act.
- To implement teleworking smoothly, it's desirable for employers to draw up work regulations after discussions between labor and management and inform workers.

## Utilize various working time systems

### Utilize various work time systems

- Telework can be conducted for any working time under the Labor Standard Act. Therefore, telework can be conducted maintaining a working hours' system before introducing telework. On the other hand, it is possible to change the working hours' system based on the introduction conditions of each system for conducting telework smoothly.
- While under a normal working hours system and a modified working hours system, it is necessary to set up start and finish working hours, it is possible to be flexible for each telework worker if there is no need to work at the designated time.
- Flextime systems in which workers can decide start and finish time s are suitable for telework.
- Off-site deemed working hours systems are applied when it is difficult to calculate working hours because of working off-site. It enables teleworking workers who work flexibly to conduct telework flexibly.  
(\*Specify other conditions for off-site deemed working hours' systems.)

## Tips for working hours management when teleworking

### Monitoring working hours when teleworking

- Monitoring working hours when teleworking is necessary, and utilizing information and communication technology enables companies to do labor management smoothly.
- For monitoring working hours, the following methods based on the guidelines for measures to be taken by employers for monitoring working hours properly can be applied:
  - Confirm start and finish times based on objective records such as records of the usage times of computers (monitoring working hours by recording the usage times of information and communication equipment or recording entry and exit times at satellite offices).
  - Monitoring based on reports from workers (\*For the reporting of working hours by workers, describe the notes to be taken, explain fully the proper management of the self-reporting system and do not take measure to inhibit proper reporting of working times by workers.)

### Working hours specifically for telework

- Temporary leaving times (\*Workers may be able to report the end of the working day. If the worker is temporarily stopping work to have their own free time, then it can be treated as a break and the finishing time delayed or treated as an hourly annual paid leave. It is also possible to count the working hours excluding break times as from the start time to finish time.
- Measures against long working hours  
The following measures may prevent long working hours teleworking:
  - Restrain the sending of emails and restrict access to the system
  - Have procedures for overtime, holidays, and midnight work when teleworking : Employers establish times and hours for when workers can conduct overtime, etc. after reaching an agreement between labor and management.

## Ensuring health and safety when teleworking

- When teleworking, workers cannot communicate with supervisors easily and supervisors cannot easily notice the change of the physical and mental health of workers. Therefore, it is desirable to take measures to establish a health consultation system or encourage communication by utilizing a checklist for employers to ensure their workers' health and safety.
- Homes, etc. are not subject to office sanitation regulations, etc. To ensure the health and safety of telework, it is important to use a checklist for employers to confirm the work environment when teleworking at home, etc. and to ask for reports on the work environment status. And when necessary, consider improving the status or utilize the satellite office.

## Compensation for occupational accidents when teleworking

- Accidents that occur when teleworking while being supervised by employers under a labor contract are covered by compensation and are treated as occupational accidents.
- It is desirable for employers to keep records of recorded working hours submitted by workers and also inform workers that they have to record their situation as much as possible for employers and medical institutes to grasp working conditions when workers are injured.

## Responses to harassment when teleworking

- Employers are obligated to take measures to prevent power harassment and sexual harassment (hereinafter referred to as "harassment"). Even during telework, as well as work in an office, employers have to take measures fully against harassment, such as raising the awareness of workers of harassment, based on the related laws and guidelines.

## Security responses when teleworking

- It is not desirable to judge all tasks that cannot be conducted through telework from the viewpoint of information security but instead to consider solutions or judge each job separately based on the progress of the related technology.

## Guidelines for the appropriate implementation of self-employed type teleworking <Overview>

- Self-employed type telework is an outsourced work, and basically no labor-related laws and regulations are applied.
- It shows the matters necessary to prevent disputes related to the contract of self-employed type telework and to make self-employed type telework a good employment form.

### 1 Definition

Self-employed type teleworking	Work that is entrusted by the orderer and uses information and communication equipment to create deliverables or provide services mainly at home or at a place of workers' choice like their home. (In case of corporate form, except for the case using another person, etc.)
Self-employed type teleworker	Worker performs the self-employed type teleworking
Orderer	Those who directly order or intend to order the self-employed teleworking.
Broker	<ol style="list-style-type: none"> <li>① A person who is entrusted with work by another person and perform ordering act of such work to the self-employed type teleworker as a business.</li> <li>② A person who mediates the work of self-employed type teleworking between the self-employed teleworker and the orderer.</li> <li>③ A person who operates a service (so-called "crowdsourcing") that allows the orderer and the contractor to directly order and provide work via the Internet.</li> </ol>

### 2 Matters to be observed by related parties (main items)

#### (1) Collecting

Indication of collecting details	<p>The orderer or the broker of above ② shall clearly indicate the following items in documents, e-mails, websites, etc.</p> <ol style="list-style-type: none"> <li>① Contents of work</li> <li>② Scheduled delivery date of deliverables (scheduled date or period for services to be provided)</li> <li>③ Expected remuneration amount, payment date, payment method</li> <li>④ Handling of expenses</li> <li>⑤ Handling of intellectual property rights related to proposals, etc.</li> <li>⑥ Contact information</li> </ol>
Handling of the proposals, etc. acquired between the collecting and contract	<ul style="list-style-type: none"> <li>• The proposal shall not use for other than the selection purpose without permission by applicants</li> <li>• If it will be requested to transfer the intellectual property right at the contract, such fact shall be clearly indicated at the collecting.</li> </ul>

#### (2) Indication of contract conditions by the document

Indication of contract conditions by the document	<p>The orderer shall, in consultation with the self-employed type teleworker, deliver a document indicating the followings (it is acceptable to indicate by e-mail or website).</p> <ol style="list-style-type: none"> <li>① Name or business name, location, contact information of the orderer</li> <li>② Order date</li> <li>③ Work content</li> <li>④ Remuneration amount, payment date, payment method</li> <li>⑤ Handling of expenses</li> <li>⑥ Delivery date of deliverables (date or period when services are provided)</li> <li>⑦ Delivery destination and delivery method of deliverables</li> <li>⑧ If inspection is required, the deadline for completing the inspection (acceptance date)</li> <li>⑨ Handling when changing contract conditions</li> <li>⑩ Handling when the deliverable is incomplete, such as a defect, or when the delivery, etc. is delayed (handling when compensation is required, etc.)</li> <li>⑪ Handling of intellectual property rights</li> <li>⑫ Handling of personal information, information about orderers, etc. which self-employed type teleworkers obtained in their work</li> </ol>
Storage	The indicated document or e-mail shall be stored for 3 years.

#### (3) Adjustment of contract conditions

##### a. Matters to note at indicating the contract conditions

Name etc. of the orderer	The orderer can be specified and surely contacted
Work content	Its description shall be clear to make the work smooth without leading misunderstanding.
Remuneration amount	By considering the remuneration for self-employed type teleworkers who perform the same or similar work, the difficulty of work, the urgency of delivery, the ability of self-employed type teleworkers, etc., it is possible to decide the remuneration to secure the appropriate profits for self-employed type teleworkers.
Payment date	Regardless whether the orderer inspects the deliverable, it shall be within 30 days from the date of receiving the deliverable or the date of receiving the service, and within 60 days at the longest.
Payment method	If a person other than the orderer, such as a broker, acts as a payment agent, it is necessary to specify at the indication of the contract conditions.
Expenses	If there are expenses related to work such as communication costs and shipping costs which the orderer bears, it is necessary to indicate the range of such expenses in advance.

\* Italic part: Matters required to only brokers

Delivery date	Set as that the working hours are not long and do not harm workers' health. The upper limit of the prescribed working hours per day (8 hours) for normal workers should also be used as a guideline to set the upper limit of working hours.
Delivery destination	Since the payment date of the remuneration is often specified as within a certain number of days from the delivery date, the delivery destination should be clarified in advance for reliable delivery.
Change in the contract conditions	It is necessary to clarify the handling of contract changes in advance. When making changes, make it to indicate and agree in writing.
Repair	It shall be clear in advance, including the responsibilities of self-employed type teleworkers.
Intellectual property rights	If the intellectual property rights will be transferred, etc. to the orderer, their price etc. shall be specified in advance. If the broker requests to transfer such rights, etc. to the orderer, it shall be specified as well.
Personal information, etc.	The matters related to the security management of personal information and matters related to the handling of confidential information shall be clarified in advance.

##### b. Specific explanation on the content of the deliverable

##### c. Payment of remuneration

- If the defect is repaired, the remuneration shall be paid.
- Even if the orderer does not pay to the broker, the broker shall pay the remuneration when the self-employed type teleworker has delivered the defect-free deliverable and provided the service.

##### d. Change in the contract conditions

- Necessary documents, etc. should be delivered after enough consultation.
- Changes that would be disadvantages for self-employed type teleworkers shall not to be forced.
- The broker shall be required to consult with the orderer so that the self-employed type teleworker will not be disadvantaged when the orderer changes the contract conditions.

##### e. Handling when the deliverable has been incomplete, such as a defect, or when the delivery etc. has been delayed

- Handling to request for repairs and claim for damages, including the responsibilities of self-employed type teleworkers, shall be clarified in advance.

##### f. Termination of the contract

- In the case of termination under the agreement, the remuneration should be decided after thorough discussion.
- If the self-employed type teleworker has not violated the contract, the damages for such teleworkers caused by the termination of the contract shall be compensated.
- It is desirable to fully discuss the burden incurred when the contract is terminated due to the reasons other than those attributable to the orderer (disaster, etc.).

##### g. Advance notice for the termination of the continuous order

- If the order in the case of an ongoing business relationship will be terminated, it is necessary to promptly notice such fact and its reasons.

#### (4) Others

Fee	The broker shall clearly indicate the amount of the fee, the conditions of occurrence, the time of collection, etc. before collecting the fee.
Forced sell etc. of products	Do not specify and force to purchase items or to use services without a justifiable reason.
Cooperation by the orderer	It is desirable to provide necessary cooperation, such as responding to meetings necessary for work.
Personal information, etc.	Specify the purpose of use as much as possible and avoid handling it beyond the necessary range without obtaining consent (the same applies to brokers). When entrusting the handling of personal information, perform the necessary supervision for self-employed type teleworkers.
Health securing measures	It is desirable to provide information on methods for ensuring health. With considering the protection of privacy, it is requested to respond consulting and make the necessary consideration according to the progress of the work.
Support for the ability development	It is desirable to support the ability development for the self-employment type teleworkers.
Specifying the responsible personnel	It is desirable to specify the responsible personnel to respond the queries or complaints by the self-employment type teleworkers in advance.
Voluntary resolution of the complaints	Efforts to resolve voluntarily, such as by fully discussing with self-employed teleworkers, shall be made. It is desirable for the brokers to improve the complaint handling system, such as clarifying the consultation desk.
Others	If the "Act against Delay in Payment of Subcontract Proceeds, Etc. to Subcontractors" is applicable, it shall be complied.