

## 1. Circumstances leading to legalization

In 1985, the dispatching of workers was legalized in Japan. Until then, private placement agencies were prohibited in principle under the Employment Security Law, in which the dispatch of workers through placement services was not allowed to be carried out as a business. At the time the law was introduced, placements were limited to 13 specialized types of work. Three additional types of work were added three years after this law came into effect, but no major expansions were observed in the 1980s. In the 1990s however, the focus of the industrial structure of Japan shifted from the manufacturing-centric secondary sector to services-focused tertiary sector. With the progress in this so-called “service economy,” the proportion of regular employment in the labor force dropped and non-regular employment increased. Within this scenario, worker dispatching—which is one form of non-regular employment—began to show a trend towards expansion, albeit very gradually.

With the collapse of the bubble economy in 1992, and faced with prolonged economic stagnation, a large number of companies began actively using non-regular employment as part of their cost reduction initiatives. In this way the demand for worker-dispatching increased, and the opinion for an expansion of permitted type of works and liberalization of worker placement businesses became stronger among corporate management. In addition, the debate that it would be necessary to revise the traditional Japanese-style employment system in order to overcome the long-term recession began to gain ground. Taking this into account, and coupled with the fact that the government firmly emphasized deregulation as the cornerstone policy of their comprehensive economic measures, the (then) Ministry of Labour started investigating the revision of the Worker Dispatching Law from the second half of the 1990s, in the view of relaxing the rules governing worker dispatch. However, in regards to business expansion on the

management side, it was stressed that dispatching workers as a form of employment had not yet received social coinage. This made the system vulnerable to problems, with rampant illegal dispatching of workers, and consequently necessitating first the drastic revision of a legal system. Therefore, while the Ministry did start investigations, the preparations took time.

In this way, due to factors such as the establishment of the ILO Convention 181 which recognized private employment services as a business and the increasing fluidity of the domestic labor market in Japan, the Worker Dispatching Law was comprehensively revised into a “negative list system,” whereby as a rule worker-dispatching became recognized for all categories of work except for the specifically listed prohibited occupations. However, since a certain amount of time was required to lay down the terms and conditions, it was decided through a supplementary resolution that the law would be revised after three years. In the 2003 amendment to the Law, among others 1) the establishment of regulations related to temp-to-hire placements, 2) simplification of procedures related to permits and registration, 3) clarification of the responsibilities of both the dispatching party and the party receiving the placement, 4) expansion of the category of works with no limits to placement periods, and 5) expansion to include manufacturing-related occupations was stipulated, and thus the preparation of legalities concerning the dispatching of workers was more or less brought to a conclusion.

## 2. Summary of the current system of dispatching

The revised Worker Dispatching Law that was established in June 2003 came into effect on March 1, 2004. The following section outlines the current worker dispatching system in light of the amended law and the related regulations in the various related ministries and agencies of the government.

### (1) Types of worker-dispatching businesses

The placement business is mainly two types, namely 1) Specified Worker dispatching business (for full-time regular employment) and 2) General Worker dispatching business (registration-based model). In the “regular employment” model, the dispatching company assigns only the staff that it permanently employs. To run a business on this model of dispatch requires notification to the Minister of Health, Labour and Welfare. Any model of dispatch that does not fall under the category of regular employment is referred to as the “registration-based” model of placement, and a business that dispatches, for instance, workers who are registered with it or temporary/daily-wage workers would fall under this category. In order to conduct registration-based dispatching business, the permission of the Minister of Health, Labour and Welfare has to be obtained, and this model of dispatching business is more stringently regulated than the regular-employment model.

### (2) Occupation of dispatched workers

Since the amendment of the law in 1999, worker dispatch, as a rule, is recognized for all occupations. Occupations for which dispatching is currently prohibited (the negative list) include the following six categories: 1) construction, 2) port transportation, 3) security services, 4) medical or related professions, 5) professions such as lawyers, judicial scriveners, certified public accountants, certified tax-accountants, or

public consultants on social and labor insurance, and 6) work that fall under personnel management where the assigned worker becomes deemed as the direct party concerned on the user side.

### (3) Period of dispatch

As a rule, the dispatching period is three years or less, but there are some businesses that do not limit the period of dispatch (see Table 18-1).

### (4) Temp-to-hire placement

Temp-to-hire placement signifies a system where worker dispatching is conducted on the previously confirmed understanding that upon the completion of the contract period for worker dispatch, the said worker will sign a contract directly as a regular employee of the company to which he or she has been dispatched.

This system, which mixes both placement and employment-introduction, was long prohibited out of fear that the placement company would not carry through its responsibility as employer under this system. But in 2000, the system was finally introduced owing to the fact that many dispatched workers do look for regular work while filling up as placement workers, especially in the form of direct employment with the company they are assigned to. This system is considered to have benefits not only for the workers themselves, but also for the companies to which they are assigned, since the companies can employ the worker after having actually tested their skills and

## 18-1 Period of dispatch by type of occupation

Type of occupation	Period of dispatch
1) Occupations not included from 2)-7) below	Not more than 3 years (Note 1)
2) Occupations that require specialized knowledge, skills, or experience (26 occupations) (Note 2)	No limits
3) Projects that have a time limit	3 years
4) Projects that have specific time limits (Note 3)	No limits
5) Workers filling for those on maternity or child-rearing leave or family-care leave etc.,	No limits
6) Manufacturing-related work	1 year until end of Feb, 2007 (Note 4)
7) Businesses that only employ middle-aged placement workers (45 year or age or above)	3 years (Note 5)

Note: The 26 occupations are: (1) Information-processing system development, (2) Machinery design, (3) Broadcast equipment operation, (4) Broadcast program direction, (5) Office equipment operation, (6) Interpretation, translation, stenography, (7) Secretarial work, (8) Filing, (9) Investigative research, (10) Financial affairs, (11) Trade, (12) Demonstrations, (13) Tour conducting, (14) Building cleaning, (15) Construction equipment operation, etc., (16) Reception desk, information desk & parking area management, (17) Research and development, (18) Business operation planning and preparation, (19) Production & editing of printed matter, (20) Advertising design, (21) Interior-design coordination, (22) Announcing, (23) OA instructions, (24) Telemarketing business, (25) Sales engineering business, (26) Sets and props for broadcast programs.

suitability, especially if the work is of a specialized nature and involves higher costs.

**(5) Measures the placement companies and the receiving companies should take**

Worker dispatch take the form of a very special system of employment, involving the placement company, the company receiving placement and the dispatched worker. Since this three-way relationship is not sufficiently understood, particularly by companies receiving placement, there are frequent occurrences of trouble when the worker is disadvantaged.

In order to prevent this and ascertain a stable form of employment, the Worker Dispatching Law stipu-

lates measures to be taken by both placement companies as well as placement-receiving companies. The following measures are to be taken by the placement company: 1) verifying the terms of employment through the signing of a contract with the placement-receiving company, 2) making the terms of employment clear to the worker, and 3) providing labor and social insurance. For the placement-receiving company, it stipulates 1) making work conditions such as working hours etc. as universally known and clear as possible, 2) prohibiting interviews and submission of resumes leading up to the placement, 3) securing a suitable work-environment, and 4) cooperation on worker training, education and so forth.