

The Answers to Guiding Questions for Focus Area:
Right to work and Access to the Labor Market

Japan Support Center for Activity and Research for Older People

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The Constitution provides the right to work (Article 27) and freedom to choose occupation (Article 22).

The Basic Law on Measures for the Aging Society upholds, as basic objective, the establishment of society that ‘ensures people to have the opportunity of participating in diverse social activities or working throughout their lives’. Its basic policies include securing job opportunities for older persons.

In accordance with the said law, the Guideline of Measures for Ageing Society was developed as a guide for measures on older persons to be implemented by the Japanese government. The Guideline was revised most recently in 2018.

General labor regulations including Labor Contract Act, Labor Standard Act, and Minimum Wage Act are applicable to older persons as in the case with people of other ages.

With particular regard to employment for older persons, Labor Policy General Promotion Act (formerly known as Employment Measures Act), serving as a basic law of employment policies, obliges employers to provide equal opportunities for people of all ages. Act on Stabilization of Employment of Elderly Persons exists to promote employment of older persons.

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The number of both male and female elderly workers is increasing. This is because more and more older persons find it harder to get by only on public pension and their own savings. When asked in a survey the main reason most seniors worked, about half of the seniors said they needed to work in order to earn an income.

The vast majority of employees 60 and over, who are retired officially but still working at the company, is subject to unstable employment with lower wages and fixed term contracts. In many cases, wages are cut significantly pushing some to bring their cases even to court. We regard this as age discrimination.

The Silver Human Resource Centers were originally created to promote well-being or ‘ikigai’ (thing that you live for) of older persons by facilitating social participation of older persons through work. However, departing from the founding spirit, the center has become virtually a job provider for older persons in

need for income. It is pointed out that in many cases those sent from the Centers are not considered as 'employees' and therefore not eligible to labor laws, leaving them in poor working conditions with low wages and without enough legal protection.

To pave the way for workers to stay employed until 70, the government plans to require employers to make efforts to employ workers until 70. There are concerns, however, that larger number of older persons may end up in working 'not under labor contract' with their rights as a worker not guaranteed.

In recent years, the government has been promoting 'paid volunteer' work for older persons as its policy, under which older persons tend to be used as 'cheap' labor.

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Act on Stabilization of Employment of Elderly Persons stipulates that the Mandatory Retirement Age must not be below 60 years of age. The revised act mandates employers to secure jobs until 65 years of age for all those who wish to continue to work after 60 (Measures for Securing Employment for Elderly Persons). Specifically the law obliges employers either to abolish mandatory retirement age, raise the mandatory retirement age up to 65, or introduce a continuous employment system. Actually, over 80% of businesses opt for a continuous employment system. However, labor conditions tend to be poor and discriminatory as stated above.

The revision of the Employment Insurance Act made it possible for those 65 and over to be covered by employment insurance. But unlike younger employees, when an employee 65 and over loses a job, the person can receive lump-sum payment only. The Act provides the system to partially compensate wage for employees 60 and over if the wage gets smaller by more than 25% compared with the wage given at 60 (continuous employment benefits for the elderly). But the government intends to abolish the system.

Other government led employment promotion measures for elderly workers include the job support services for older workers at Public Employment Security Office to help older workers find jobs, or start their own business, or support employers who hire older workers.

Currently, the government is looking into ways to make it a policy to keep people in the workforce until 70. But there is an inherent risk that increasing the number of older persons may have to work without labor contracts.

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Article 9 of the Labor Policy General Promotion Act prohibits age discrimination in recruitment and hiring. Other than that, age is not specifically mentioned as the prohibited ground of discrimination.

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Judicial remedy by court settlement is available. There is a legal system to resolve individual labor related disputes by government bodies (mediation and conciliation). There are no systems specifically catering to older persons.