

Labor & Employment Law Newsletter**Japan: Expansion of Employment Adjustment Subsidies due to COVID-19****Jiro Abe, Hirofumi Takahashi**

* This newsletter was drafted based upon the information available as of April 30, 2020

While many businesses in Japan are closed or limiting operations due to COVID-19, pursuant to Article 26 of the Japanese Labor Standards Act, employers are in most cases required to pay each employee placed on leave an allowance that is 60% or more of their average salary (the “Leave Allowance”).¹ As part of the effort to aid businesses affected by COVID-19 and to protect employment, the Japanese government has introduced special measures to expand the eligibility of the Employment Adjustment Subsidy (the “EAS”), which includes support for such Leave Allowances.²

I. Outline of the Employment Adjustment Subsidy

The EAS is intended to support employers who face business difficulties and have asked its employees to take leave with Leave Allowances. In principle, the amount of subsidies paid to an eligible employer is calculated in the following manner:

Average wage per employee per day x Percentage of the Leave Allowance (60% or more) x Subsidy Rate x Total number of leaves taken by employees = Subsidy amount

¹ Please refer to our Labor & Employment Law Newsletter dated April 16, 2020 for further details concerning the Leave Allowance: https://www.jurists.co.jp/en/newsletters/labor_employment_law_200416.html

² Please note that this news letter only provides information concerning subsidies for the Leave Allowance and does not cover subsidies concerning employees’ education and training.

In order to receive the EAS, the employer is required to meet various criteria, however, in light of the business downturns seen in many sectors due to COVID-19, the Japanese government has introduced special measures to expand the eligibility of the EAS to those business owners affected by COVID-19 (the “Special Measures”).

II. Special Measures and eligibility for the Employment Adjustment Subsidy

1. Comparison of the “Original” and “Special Measures” subsidy requirements

Items	Original Requirements and Criteria	Special Measures during the Emergency Response Period (April 1 to June 30)
Eligible Employer	Business operators who are forced to downsize business activities for economic reasons	Business operators affected by new coronavirus infectious diseases (all industries)
Production Index Criteria	Decline of 10% or more in applicable production/sales index for the past 3 months compared to previous year	Decline of 5% or more in production/sales index for the past 1 month compared to previous year
Employment Insurance Requirement	Applicable only to Leave Allowances paid to employees who are enrolled in employment insurance, and those who are enrolled in employment insurance for 6 months or longer.	Include Leave Allowances paid to employees who are not enrolled in employment insurance, and elimination of the requirement concerning the enrollment period.
Subsidy Rate	2/3 (Small and Medium Sized Enterprises, “SMEs”) or 1/2 (Large Enterprises) of the amount that employers paid as Leave Allowances.	4/5 (SMEs), 2/3 (Large Enterprises) of the amount that employers paid as Leave Allowances. If the applicant avoids dismissal, etc., the rate is increased to 9/10 (SMEs) and 3/4 (Large Enterprises). On May 1, 2020, the government has announced further rate increase for SMEs that avoid dismissal, etc. Under the new measures, a) if an SME is requested to pause operations by the relevant local government and such SME pays 100% of average salaries in an amount of more than JPY8,330 per day to its employees as Leave Allowances, a 10/10 subsidy rate will apply, and b) even if an SME is not requested to pause operations, if it is paying more than 60% of employees’ average salaries as Leave Allowances, a subsidy rate of 10/10 will apply for those amounts paid in excess of 60%.
Leave Plan Notification	Plan Notification should be submitted prior to the suspension, etc., of business	Ex post facto submissions of Plan Notifications are acceptable (January 24 to June 30)
Cooling Off Period	One-year cooling off period is required prior to receiving new subsidies	Elimination of requirement regarding the cooling off period
Length	Maximum number of days of suspension, etc., to be covered by the subsidy is 100 days/year, 150 days/3 years	The Emergency Response Period (from April 1 to June 30) should be excluded from the calculation of the number of days described on the left

2. Employees on Leave Eligible for the Subsidy

Employees on leave must meet the following criteria to be eligible for the EAS.

- 1) Leaves must be granted based on a Labor - Management Agreement that provides for the period of such leave, employees subject to leave, percentage of Leave Allowances paid to the employees, etc.
- 2) The leave must be taken during the period specified by the employer.
- 3) Total days of leave must be greater than the minimum required days; 1/40 (SMEs) and 1/30 (Large Enterprises) of the total prescribed working days of the employees subject to leave.
- 4) Leave Allowances paid to employees during leave must be 60% or more of the employee's average salary.
- 5) Leave must be granted during the prescribed working hours.

3. Documents required for EAS application

Applicants for the EAS must submit the required documents to the relevant local labor office. Given the significant increase in applicants, the government has reduced the number of documents and information required for application. However, there still are a number of required documents. The chart below lists material documents and information required for application.

Document	Outline
Leave Plan (form 1)	Applicant must submit the outline of the entity and leave plan using a designated form.
Business operation status of the applicant (form 4)	Applicant must report the business status of the relevant office/location subject to leave using a designated form.
Labor-Management Agreement	Labor - Management Agreement that provides for the details of leave.
Documents to confirm the status of the business, etc.	Supporting documents and evidences to confirm the items provided under the application forms.
Subsidy Payment Request (form 7)	Application form for the Employment Adjustment Subsidy.
Subsidy Calculation Form (form 8)	Applicant is required to calculate the eligible amount of subsidies using a designated form.
Confirmation of subsidy eligibility (form 6)	Applicant is required to declare that applicant fulfills the necessary requirements for receiving the subsidies using a designated form.
Documents to confirm the leave taken by the relevant employees, etc.	Supporting documents and evidences to confirm the leave taken by employees and payment of Leave Allowances, etc.

III. Outlook

COVID-19 is causing significant negative impacts on various businesses throughout Japan, and demand for the Employment Adjustment Subsidy is at an unprecedented (high) level, causing certain delays and confusion concerning the application and payment process of the subsidies. The government is considering introduction of further measures to expand the eligibility for such subsidies and to expedite the relevant procedures for application and payment thereof. It is advisable to confirm the latest information when applying for the Employment Adjustment Subsidy.



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