



Act for Partial Revision of the “Act for Securing the Proper  
Operation of Worker Dispatching Undertakings and  
Improved Working Conditions for Dispatched Workers”  
(The Revised Worker Dispatching Act)

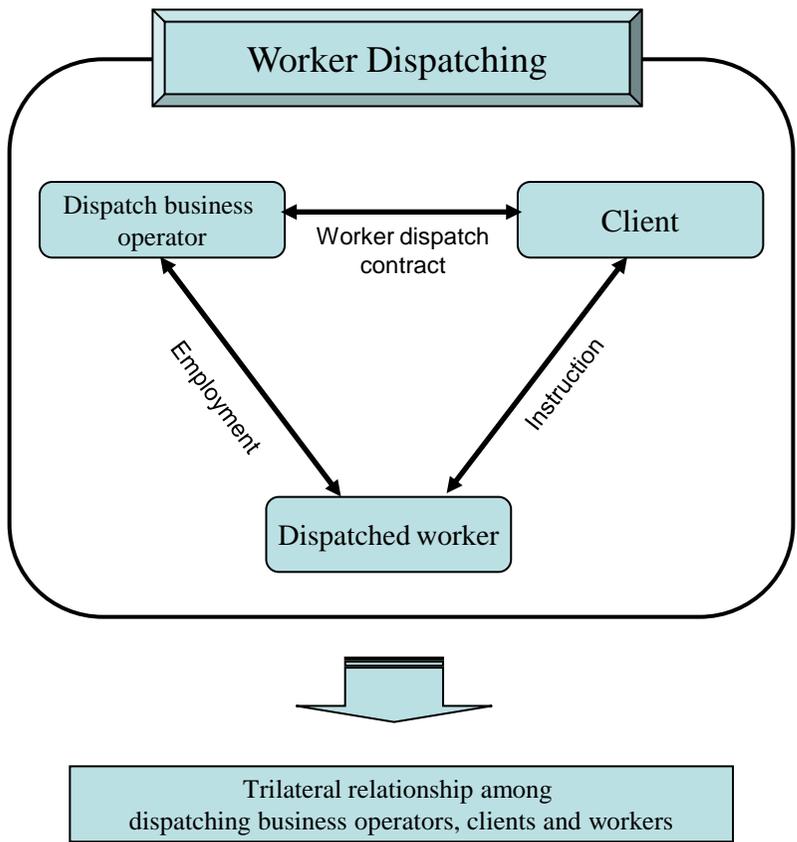
Ministry of Health, Labour and Welfare 2012



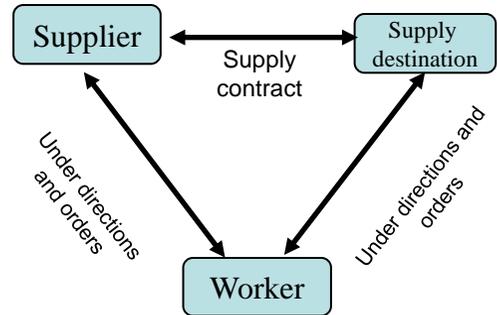
# 1. Summary of the worker dispatching undertaking system

# ○ Worker Dispatching

Worker Dispatching means causing a worker(s) employed by one person so as to be engaged in work for another person under the instruction of the latter, while maintaining his/her employment relationship with the former (Article 2(i), the Worker Dispatching Act)

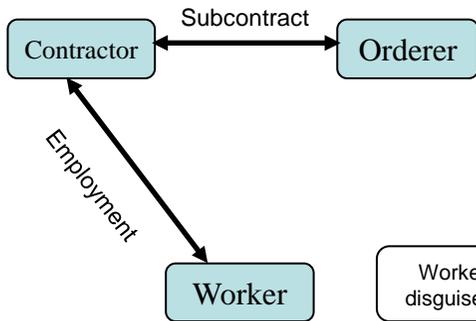


## (Reference 1) Labour Supply

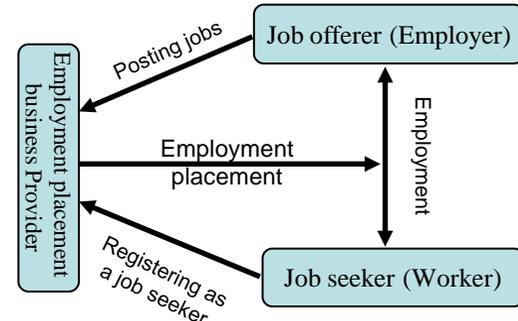


※Labour supply does not include contracts which fall into worker dispatching.

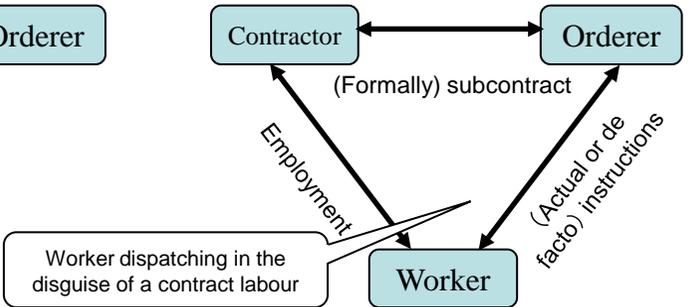
## (Reference 3) Contract Labour



## (Reference 2) Employment Placement



## (Reference 4) Disguised Contract Labour (This falls into worker dispatching in legal terms)



※ The Labour Supply Business is prohibited by the Employment Security Act.

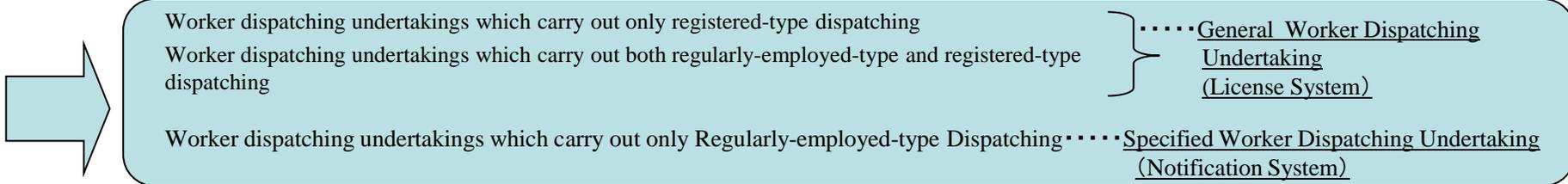
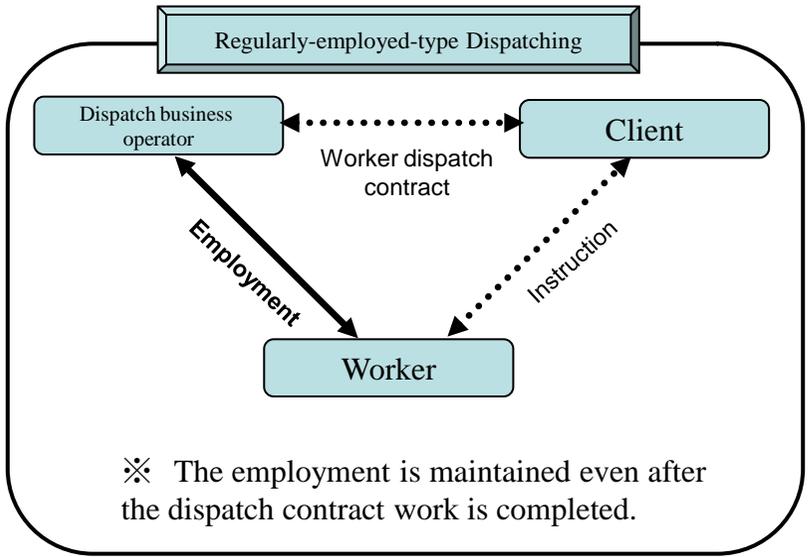
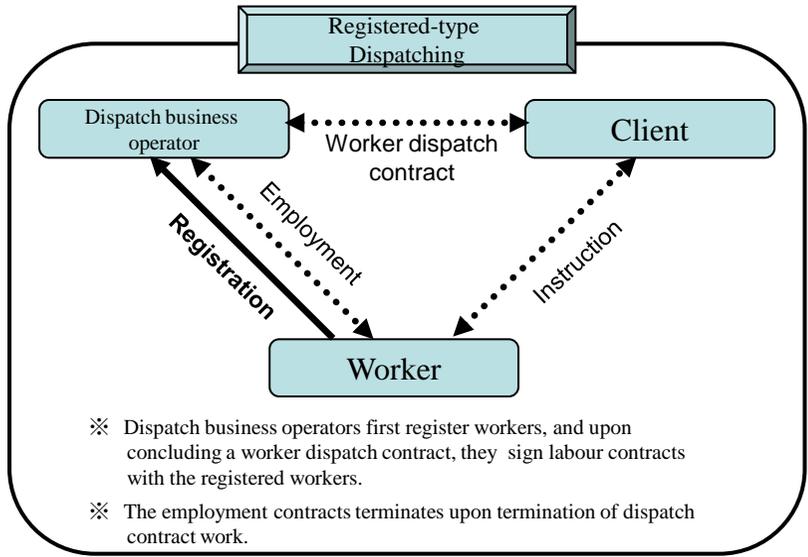
※ Worker Dispatching is a form of the Labour Supply conventionally practiced. Operating Worker Dispatching as a business is legalized by the Worker Dispatching Act subject to certain rules.

# ○ 2 types of Worker Dispatching and License/Notification Systems

**Registered-type Dispatching :** Dispatch business operators register workers who want to work as dispatched workers to their list, and upon request of a client, sign employment contracts with registered workers who meet the client's demands.

**Regularly-employed-type Dispatching :** Dispatch business operators employ workers as regular workers and dispatch them to clients as a form of business.

※ Neither are legal terms.



## <Notification System for Regularly-employed-type Dispatching>

As Regularly-employed-type Dispatching secures stable employment of dispatched workers, Specified Worker Dispatching Undertakings are considered to be preferable to General Worker Dispatching Undertakings. Therefore, there is little need to check in advance whether they meet certain conditions such as the ability to conduct the proper employment management of dispatched workers.

# ○ Outline of the Worker Dispatching Undertaking System (1)

## 1 Prohibited work

Worker dispatching undertakings may not be carried out in ① port transport services, ② construction work, ③ security services. With regard to ④ medical related services provided in hospitals, etc., worker dispatching may be carried out only in such cases where employment placement dispatching is carried out, dispatched workers take over jobs from workers who take maternity leave, child care leave, family care leave, etc., or services are operated in remote areas.

## 2 License/Notification systems

Specified Worker Dispatching Undertaking (all dispatched workers are regularly employed) ⇒ Notification system  
General Worker Dispatching Undertaking (not all dispatched workers are regularly employed) ⇒ License system

※) The license for general worker dispatching undertakings shall be obtained by each dispatching business operator (Any changes in information provided in the application form for a license including the establishment of a new office shall be notified.) An initial license is valid for 3 years, and a renewed one is valid for 5 years.

## 3 Worker dispatch contracts

(1) Contents of contracts, etc.

Worker dispatch contracts signed by a dispatching business operator and a client stipulate such items as the nature of the work in which dispatched workers are to be engaged, the location of the work, the period of worker dispatching, etc.

(2) Prohibition of specification of dispatched workers

Clients are prohibited from committing any acts intended to specify workers under the worker dispatching arrangement, such as conducting interviews or receiving curriculum vitae before the conclusion of worker dispatch contracts.

# ○ Outline of the worker dispatching undertaking system (2)

## 4 Restrictions on the periods for receiving worker dispatching services

(1) A client shall not receive worker dispatching services for the same work (excluding the categories of work listed in paragraph (2)①~⑤) for more than 1 year in principle (exceptionally up to 3 years※).

※) In order to extend the period to more than 1 year, a client shall listen to and give consideration to opinions of the labour union comprising a majority of the workers on the work for which the worker dispatching is to be carried out and the period and scheduled commencement of the worker dispatching after giving the union enough time to study.

(2) Categories of work that have no restrictions on the period of receiving worker dispatching services

① the work specified in a Cabinet Order (so-called “26 special job categories”※) including software development ② fixed-term projects (3 years or less) ③ “fixed-days” jobs (working days per month are both less than 10 days and less than half of normal prescribed working days for regular workers of a client) ④ jobs of workers on maternity leave, child care leave, and family care leave ⑤ jobs of workers on long-term care leave

※) “26 special job categories”・・・(1)Software development (2) Machinery design (3)Operation of broadcasting equipments (4)Production of broadcast programs (5)Operation of business equipments (6)Interpretation, translation, and shorthand writing work (7)Secretarial work (8)Filing (9)Market research (10)Financial arrangement (11)Business document preparation (12)Demonstrations of machinery (13)Tour conducting work (14) Building cleaning work (15)Operation, checking, and maintenance of building equipments (16)Reception and guide services, parking management (17)Research and development (18)Planning of the development of business operation systems (19)Editing work in producing books (20)Advertising design (21)Interior coordinators (22)Announcers (23)OA instructors (24)Telemarketing sales (25)Sales engineer, financial products sales (26)Stage sets and props designers and coordinators for broadcast programs

## 5 Obligation to offer an employment contract to dispatched workers

(1) A client is obliged to offer an employment contract to dispatched workers in the following cases:

A) A client wants to retain a dispatched worker for the job that has restrictions on the period of receiving worker dispatching services (jobs not listed in 4 (2) ①) after the statutory period has passed※.

B) A client, who has taken in the same dispatched worker for the same job with no restrictions on the periods of receiving worker dispatching services (jobs listed in 4. (2) ①) for more than 3 years, intends to employ a new worker for the same job,

※) A client who has taken in the same dispatched worker for the same work with restrictions on the periods of receiving worker dispatching services for more than 1 year and intends to employ a new worker for the same work after the termination of a dispatch work contract shall endeavor to employ the dispatched worker engaged in that work.

(2) Clients who do not comply with the obligation to offer employment contracts are subject to administrative guidance, advice, recommendations, and public announcement of their names.

# Outline of the worker dispatching undertaking system (3)

## 6 Employment placement dispatching

A type of worker dispatching in which dispatching business operators are prepared to provide employment placement for dispatched workers and clients.

- ※ Employment placement dispatching is carried out with the prospect that dispatched workers will be directly employed by clients after a certain period.
- ※ For employment placement dispatching, clients can specify dispatched workers through conducting interviews and requesting for curriculum vitae, notwithstanding 3 (2).
- ※ The period of the employment placement dispatching shall be up to 6 months.
- ※ When clients receiving employment placement dispatching services do not want to get employment placement or do not employ dispatched workers, they shall clearly specify reasons to dispatching business operators. (The dispatching business operators shall clearly specify these reasons to the dispatched workers.)

## 7 Measures to be taken by dispatching business operators and clients

### (1) Measures to be taken by dispatching business operators

①Protection of personal information ②Promotion of the welfare of dispatched workers including securing employment opportunities and education and training opportunities ③Securing proper dispatch work ④Clear indication to workers about working conditions ⑤Notification of subscription to social and labour insurances and reasons for non-subscription to them to dispatched workers and clients ⑥Appointment of a responsible person acting for the dispatching business undertaking (a special responsible person in case of providing dispatching undertaking services to manufacturing services) ⑦Preparation of a management record on dispatch work and entry of data on each dispatched worker ⑧Measures to provide dispatched workers with stable employment ⑨Consideration for balanced welfare programmes, etc. of dispatched workers with equivalent workers of the client

### (2) Measures to be taken by clients

①Appropriate measures so as not to violate worker dispatch contracts ②Securing proper dispatch work ③Appointment of a responsible person acting for the client with regard to dispatching undertaking (a special responsible person in case of receiving dispatching undertaking services for manufacturing services) ④Preparation of a management record on dispatch work and entry of data on each dispatched worker ⑤Measures to provide dispatched workers with a stable employment

### (3) Special application of the Labour Standards Act and Related Acts, etc.

In principle, dispatching employers who employ dispatched workers are responsible for the application of the Labour Standards Act, the Industrial Safety and Health Act, etc. However, regarding certain provisions of relevant Acts, the dispatching employers and clients receiving worker dispatching services share responsibilities in order to promote the protection of dispatched workers.

## 8 Counseling/assistance, instruction and supervision, etc.

### (1) Counseling/assistance, etc.

Notification by dispatched workers of the violation of the Act or the provisions of orders (prohibition of disadvantageous treatment of the dispatched workers due to the notification), counseling/assistance to dispatched workers, etc. by public employment security offices, etc., and professional advice by supporters of proper operation of worker dispatching undertakings

### (2) Instruction and supervision, etc.

5 Administrative guidance/advice, orders for improvement, etc. by regional labour bureaus in case of the breach of the Act



2. Act for Partial Revision of the “Act for Securing the Proper Operation of Worker Dispatching Undertakings and Improved Working Conditions for Dispatched Workers”  
(The Revised Worker Dispatching Act)

(Enacted on March 28, 2012)

# The Revised Worker Dispatching Act

## Strengthened business regulations

- Prohibition of day worker dispatching (dispatching workers employed on a daily basis or for a fixed term of 30 days or less) in principle (excluding businesses deemed not to hinder appropriate employment management or cases where securing employment opportunities for dispatched workers is exceptionally difficult, etc.)
- Limit of dispatching of workers to group enterprises up to 80% maximum
- Prohibition of clients' acceptance of ex-employees as dispatched workers within 1 year from displacement

## Promotion of indefinite-term employment and better treatment of dispatched workers

- Making it obligatory for dispatching business operators to make efforts in taking measures to promote transition of fixed-term employment of certain dispatched workers to indefinite-term employment
- Giving consideration to balance between dispatched workers and workers directly hired by clients engaged in the same type of work in regards to wages, etc.
- Making it obligatory for dispatching business operators to disclose the percentage of the difference between the dispatching price clients pay and the wage of dispatched workers (so called "margin of dispatching business"), etc.
- Making it obligatory for dispatching business operators to clearly show the dispatching price per worker in hiring a dispatched worker
- Making it obligatory for dispatching business operators and clients to take such measures as securing employment opportunities of dispatched workers and to bear the cost of leave allowance , etc. when clients terminate the worker dispatch contract

## Rapid and appropriate handling of illegal dispatching

- Clients shall be deemed to have offered employment contracts to dispatched workers when they receive illegally dispatched workers despite being aware of the illegality.
- Provision of causes for disqualification of the worker dispatch business license, etc. in order to prevent the avoidance of punishment.

\* In addition to the above, "protecting dispatched workers" is explicitly stated in the title and "protection and stable employment of dispatched workers" is stipulated in the purpose of the Act .

\* "Ways to deal with registration type worker dispatching", "ways to deal with dispatching to the manufacturing industry", and "ways to deal with specified worker dispatch businesses" are specified as matters for study.

Date of enforcement: 1<sup>st</sup> Oct 2012 (enforcement date of the deemed offer of an employment contract : 1<sup>st</sup> Oct.2015)

### [Major amendments at the Diet]

- "Prohibition of registration type worker dispatching and dispatching to the manufacturing industry in general" were deleted, and "ways to deal with registration type worker dispatching and dispatching to the manufacturing industry" were specified as matters for study.
- The scope of day worker dispatching prohibited in principle was modified from "for a term of 2 months or less" to "for a term of 30 days or less", and added "cases where securing employment opportunities is particularly difficult" to exceptions of the prohibition in principle.
- The enforcement date of the deemed offer of an employment contract was put off until "after three years from the date on which the amended Act comes into force".

# ○ Strengthening regulations on worker dispatching undertakings

## Day worker dispatching

Because the employment period is too short, clients and dispatching business operators fail to fulfill their duties of proper employment management.

- *It tends to be a hotbed of illegal practices such as worker dispatching services in prohibited categories of work and re-dispatching of workers to third parties.*
- *Occupational accidents may occur.*



- Dispatching workers employed on a daily basis or for a fixed term of 30 days or less is prohibited.
- A positive list of work deemed not to hinder appropriate employment management of dispatched day workers was adopted in a Cabinet Order as an exception.
- Such cases as securing employment opportunities for dispatched workers is exceptionally difficult (elderly workers above 60, full-time students, those who work on the side and secondary earners) were added as an exception in the Diet's amendment.

## Dispatching to group companies

The majority of clients belong to the same group of companies as the dispatching business operator.

- *It may be used as de facto second personnel department, which fails to function as supply-demand adjustment in the labour market.*
- *This results in employers laying off directly hired employees and receiving them as dispatched workers, which leads to lower working conditions for workers.*

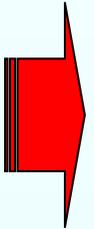


- Dispatching workers to group enterprises (a parent company and consolidated subsidiaries) is limited to 80% in a fiscal year (retired workers who work as dispatched workers are excluded from the restriction).
- Clients' acceptance of their ex-employees (excluding retired workers) as dispatched workers within 1 year after displacement is prohibited.

# ○ Promotion of indefinite-term employment and stable employment

## **Promotion of indefinite-term employment**

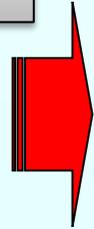
- *Dispatched workers have less opportunities for vocational ability development and their work experiences tend to be unappreciated.*
- *The status of dispatched workers is immobilized though they are compelled to work as dispatched workers.*
- *Dispatched workers have little chances to have indefinite-term contracts.*



- Making it obligatory for dispatching business operators to make efforts in taking either of the following measures that promote changing the status of certain fixed-term (1 year or more) dispatched workers to indefinite-term workers upon their request:
  - Hiring dispatched workers with indefinite-term contracts or hiring them as regular workers
  - Promoting direct employment by clients by making dispatched workers subject to employment placement dispatching
  - Implementing such measures as education and training for dispatched workers in order to promote their indefinite-term employment

## **Measures against termination of worker dispatch contracts**

- *Early termination of worker dispatch contracts leads to unemployment of dispatched workers.*



- Making it obligatory for dispatching business operators and clients to take such measures as ensuring the provision of new employment opportunities and to bear the cost of leave allowance, etc. on termination of worker dispatch contracts in order to secure stable employment of dispatched workers

# ○ Better treatment of dispatched workers

## **Better treatment of dispatched workers**

- *Dispatched workers' performances tend to be underappreciated and are not compensated properly.*
- *Business management for dispatched workers tends to be unclear.*



○ Making it obligatory for dispatching business operators to give consideration to the balance between dispatched workers and workers directly hired by clients and engaged in the same types of work in regards to wages, education and training, welfare programs, etc.

- Making it obligatory for dispatching business operators to disclose the number of dispatched workers, the number of clients, the percentage of the difference between the dispatching price clients pay and the wages of dispatched workers (so called “margin of dispatching business”), opportunities for education and training, etc.
- Making it obligatory for dispatching business operators to clearly specify the working conditions including expected wages to prospective dispatched workers before hiring them
- Making it obligatory for dispatching business operators to clearly specify the dispatching price per person clients pay upon hiring dispatched workers, starting worker dispatching and revising dispatching prices
- Making it obligatory for dispatching business operators and clients to clearly specify in employment placement dispatching contracts the matters concerning employment placement dispatching including the nature of work workers will be engaged in after the employment placement and working conditions

# ○ Rapid and appropriate handling of illegal dispatching①

**Increase of violations of the Act**

- *Corrective measures against illegal dispatching may lead to workers' disadvantages (termination of fixed-term employment, dismissals, etc.)*
- *The number of clients who repeat illegal practices with the same dispatching business operators is increasing.*
- *There is a growing number of employers who attempt to evade sanctions against illegal dispatching.*



- Clients are deemed to have offered an employment contract to a dispatched worker if they overlook the following breach of the Act and receive illegal dispatching workers (except when they are not aware of the following unlawful acts, and not negligent in their unawareness).
  - ① Making workers involved in prohibited categories of work (※).
  - ② Receiving worker dispatching services from dispatching business operators without a license or a notice
  - ③ Receiving worker dispatching services for over the restriction on period
  - ④ Receiving “disguised contract labour” services (This means that clients receive worker dispatching services without concluding worker dispatch contracts disguised as contract labour, etc. in order to evade the application of the provisions of the Worker Dispatching Act)
- Clients are deemed to have offered an employment contract to a dispatched worker under the same terms and conditions as those offered by dispatching business operators to the dispatched worker upon the occurrence of the illegality.

- The government may offer advice by responding to a request of clients and dispatched workers on whether their worker dispatching services fall under ① to ④.
- The government may provide clients with advice, guidance and recommendations when clients do not employ the dispatched workers concerned in spite of the acceptance of deemed employment offer by the dispatched workers.

The government may publish the fact when clients do not comply with the recommendations.

※Prohibited categories of work:  
Port transport services, construction work, security services, medical related services

# ○ Rapid and appropriate handling if illegal dispatching ② - Date of enforcement of the Act

## Increase of violations of the Act

- *Corrective measures against illegal dispatching may lead to workers' disadvantages (termination of fixed-term employment, dismissals, etc.)*
- *The number of clients who repeat illegal practices with the same dispatching business operators is increasing.*
- *There is a growing number of employers who attempt to evade sanctions against illegal dispatching.*



- Strengthening of corrective measures against breach of the Act by clients  
→ The government may immediately issue recommendations without providing guidance or advice beforehand.

- Provision of causes for disqualification of the worker dispatch business license, etc. as follows:
  - Any person who was a board member of a juridical person whose dispatch business license was revoked within 5 years is unqualified for a new license.
  - Any person who filed a notification of discontinuance of an undertaking following the revocation of his/her license within 5 years is unqualified for a new license.

## Date of enforcement

- The Revised Worker Dispatching Act was enforced on October 1, 2012. (A date within 6 months from the date of the promulgation of the Revised Act which is specified by a Cabinet Order).
- The enforcement date of the deemed offer of an employment contract is October 1, 2015, 3 years after the date of the enforcement of the Revised Act.

# ○ Revision of the title of the Act & Supplementary provisions on review of the Act, etc.

## Revision of the title of the Act

- “Protection of dispatched workers” is clearly stated in the title of the Act and “protection of dispatched workers and contribution to the stabilization of their employment and promotion of their welfare” is stipulated in the purpose of the Act.

## Supplementary provisions on review of the Act, etc.

- The government shall endeavor to take such measures as improving employment placement services offered by public employment security offices or employment placement business providers in order to promote stable employment of workers who no longer can work as dispatched workers due to the prohibition of worker dispatching undertakings and to support the securing of labour forces for enterprises.

- The government shall review the enforcement status of the Revised Act and if necessary, shall take necessary measures based on the results including further steps to reinforce the protection of dispatched workers approximately 5 years after the enforcement of the act.

- The government shall immediately examine items particularly necessary for improving the protection of dispatched workers including the responsibility of clients based on the provisions on review above bearing in mind the importance of protecting dispatched workers.