

A Simple Guide to Japan's Variable Working Hours Systems (変形労働時間制)

What is a Variable Working Hours System?

Japan's variable working hours system allows employers to adjust daily and weekly working hours within certain periods, as long as the average working hours comply with legal limits. Instead of the standard "8 hours per day, 40 hours per week" rule applying every single week, the system averages working hours over longer periods.

The basic principle: You can work more than 8 hours on busy days and fewer hours on quiet days, as long as the total averages out correctly over the designated period.

Why Do Employers Use These Systems?

- **Seasonal businesses:** Retailers busy during holidays, schools with different semester loads
- **Cost efficiency:** Avoid overtime payments during busy periods
- **Operational flexibility:** Match staffing to actual business needs
- **Employee satisfaction:** Can provide more days off during quiet periods

The Four Types of Variable Working Hours Systems

1. Weekly Variable System (1 週間単位の非定型的変形労働時間制)

- **Period:** One week
- **Who can use it:** Only retail, restaurants, and hotels with fewer than 30 regular employees
- **Agreement required:** Labour-management agreement (required)
- **Filing required:** Must be filed with Labour Standards Office
- **Rules:**
 - Maximum 10 hours per day
 - Maximum 40 hours per week average
 - Limited to businesses with daily fluctuations

- **Fatigue safeguard:** Built-in daily cap and requirement that in any given week the average not exceed 40 hours

2. Monthly Variable System (1 ヶ月単位の変形労働時間制)

- **Period:** Up to one month
- **Who can use it:** Any employer
- **Agreement required:** Work rules OR labour-management agreement (employer's choice)
- **Filing required:**
 - Work rules: Filed if company has 10+ employees (standard work rules filing)
 - Labour-management agreement: Must be filed with Labour Standards Office
- **Rules:**
 - Maximum 10 hours per day
 - Legal working hour limits for the month:
 - 31-day month: 177 hours 8 minutes maximum
 - 30-day month: 171 hours 25 minutes maximum
 - Must create a written schedule in advance (not just a labour-management agreement)
- **Common use:** End of month busy, beginning of month quiet
- **Fatigue safeguard:** Limits on how many hours can be concentrated in a single day within that one-month window

Example Monthly Schedule:

- Days 1-24: 9 AM to 5 PM (8 hours)
- Days 25-31: 8 AM to 7 PM (10 hours)
- Result: Averages to 40 hours per week over the month

3. Annual Variable System (1 年単位の変形労働時間制)

- **Period:** More than one month, up to one year
- **Who can use it:** Any employer
- **Agreement required:** Labour-management agreement (required)
- **Filing required:** Must be filed with Labour Standards Office
- **Legal limits:**
 - Annual total: 2,085.7 hours (365 days) or 2,091.4 hours (366 days)
 - Daily maximum: 10 hours
 - Weekly maximum: 52 hours (maximum of 3 consecutive weeks exceeding 48 hours)
 - Maximum consecutive working days: 6 days (up to 12 days during special busy periods)
 - Maximum 280 working days if period exceeds 3 months
- **Fatigue safeguards:**
 - Explicit daily and weekly limits
 - Restrictions on consecutive working days
 - 3-month block rules (only one consecutive block >48h/week, or three non-consecutive such weeks)
 - Strongest explicit fatigue-prevention wording of all systems

4. Flextime System (フレックスタイム制)

- **Period:** Up to 3 months (settlement period) - **revised in 2019 from original 1-month limit**
- **Who can use it:** Any employer
- **Agreement required:** Labour-management agreement (required)
- **Filing required:**
 - **Settlement period 1 month or less:** No filing required
 - **Settlement period over 1 month:** Must be filed with Labour Standards Office
- **How it works:** Workers control start/finish times within a settlement period

- **Core time:** Period when all employees must be present (e.g., 10 AM - 3 PM)
- **Flexible time:** Periods when employees can choose to work or not
- **Rules:**
 - Total working hours in settlement period must not exceed what normal 40-hour week would allow
 - No statutory daily limit like other systems, but employers risk violating overtime rules unless offset elsewhere in the period
- **Fatigue safeguard:** By limiting the settlement period and requiring average hours ≤ 40 per week, it prevents indefinite "cramming" of long days

Flextime Example:

- Flexible hours: 7 AM - 10 AM and 3 PM - 8 PM
- Core hours: 10 AM - 3 PM (mandatory)
- Employee might work 7 AM - 4 PM one day, 10 AM - 7 PM another day

Legal Requirements Summary

Worker Representative Requirements for Labour-Management Agreements:

All labour-management agreements must be legitimately signed by worker representatives to be valid. This means either:

- **A labour union** that represents a majority of workers at the workplace, OR
- **A person representing a majority of workers** who has been properly elected by the workers themselves (not appointed by management)

Important: If the "worker representative" was chosen by management or wasn't legitimately elected by workers, the entire agreement may be invalid under Japanese labour law.

Special Protections for Workers

- **Pregnant women and mothers with young children:** Can request exemption from variable hour systems

- **Advance notice:** Employers must give reasonable advance notice of schedule changes
- **Health considerations:** Systems should not create excessive strain on workers
- **Childcare considerations:** Employers must give careful consideration to workers who need time for childcare, eldercare, or training

Red Flags to Watch For

- Employer claims "no overtime payments ever" under variable system
- Schedule changes with no advance notice
- Working more hours than legally allowed for the period
- No clear specification of working hours in your contract
- Employer refuses to show labour-management agreement
- System implemented without proper worker representative consultation
- **The "worker representative" who signed the agreement was chosen by management rather than elected by workers**
- **No one knows who the worker representative is or how they were chosen**
- **The employer claims they don't need worker agreement because "it's just work rules"** (this may be incorrect depending on the system used)

Questions to Ask Your Employer

1. "Which variable working system applies to my position?"
2. "Can I see the labour-management agreement or work rules?"
3. "How exactly is my overtime calculated under this system?"
4. "What advance notice will I receive for schedule changes?"
5. "Can I request exemption from this system for health/family reasons?"
6. "Was this system properly negotiated with worker representatives?"
7. "Who was the worker representative that signed the labour-management agreement, and how were they chosen by the workers?"

When to Seek Help

Contact us if:

- You're working more total hours than legally allowed for your system
- Your employer won't show you the proper agreements
- You're not being paid overtime when legally required
- Schedule changes are causing health or family problems
- Your employer is threatening to fire you for questioning the system
- The system was implemented without proper worker consultation

This guide provides general information only. If you're experiencing workplace problems related to working hours, contact the General Union for assistance.