

No.18 Vacation (text 260-268)

1 Vacation/Leave System in Japan

- Vacation and leave fixed by law
- Characteristics of annual paid-holiday system in Japan

2 Structure of Right to Annual Leave

- Formative right theory
- Claim right theory
- Dichotomy theory

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3 Generation of Annual Leave

- Requisite for generation of the right to an annual leave (Art. 39, para. (1))
- Number of days for an annual leave (Art. 39, para. (1) and (2))
- As for workers without enough normal working days (Art. 39, para. (3), and Art. 24-3 of Ordinance for Enforcement of Labor Standards Law)
- Granting unit of an annual leave: “calendar day”
← Proposal for an amendment of Labor Standards Law

4 Specification of Annual-leave Time

4.1 Exercise of Right to Specifying Season

- Legal nature of the right to specifying the season
- Exercise of the right to changing the season

What kind of situations can be said to correspond to “ones to hinder a normal operation of the business”?

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4.2 Planned Annual Leave

- Systematic grant of an annual leave as per a labor-management agreement
Does an effect to specify an annual leave generate for workers who oppose the agreement?

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5 Free Use of Annual Leave

- Principle for the free use of an annual leave

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*Is it permitted for a worker to take an annual leave with the purpose to sabotage

business operation of an establishment he belongs to?

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6 Disadvantageous Treatment against Acquisition of Annual Leave

- Art.136 of the supplementary provision to Labor Standards Law
- Intended meaning the law has guaranteed the right to an annual leave (→public order and decency)

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7 Lapsing of Right to Annual Leave

- Lapse of an unused annual leave (Art. 115 of Labor Standards Law)

RESEARCHY Is it necessary to let Japanese workers take a vacation? Is it all right to say that to those who prefer working to resting? Provided that a leave is necessary, what kind of legal policies can you think of in order to let them take a vacation?

