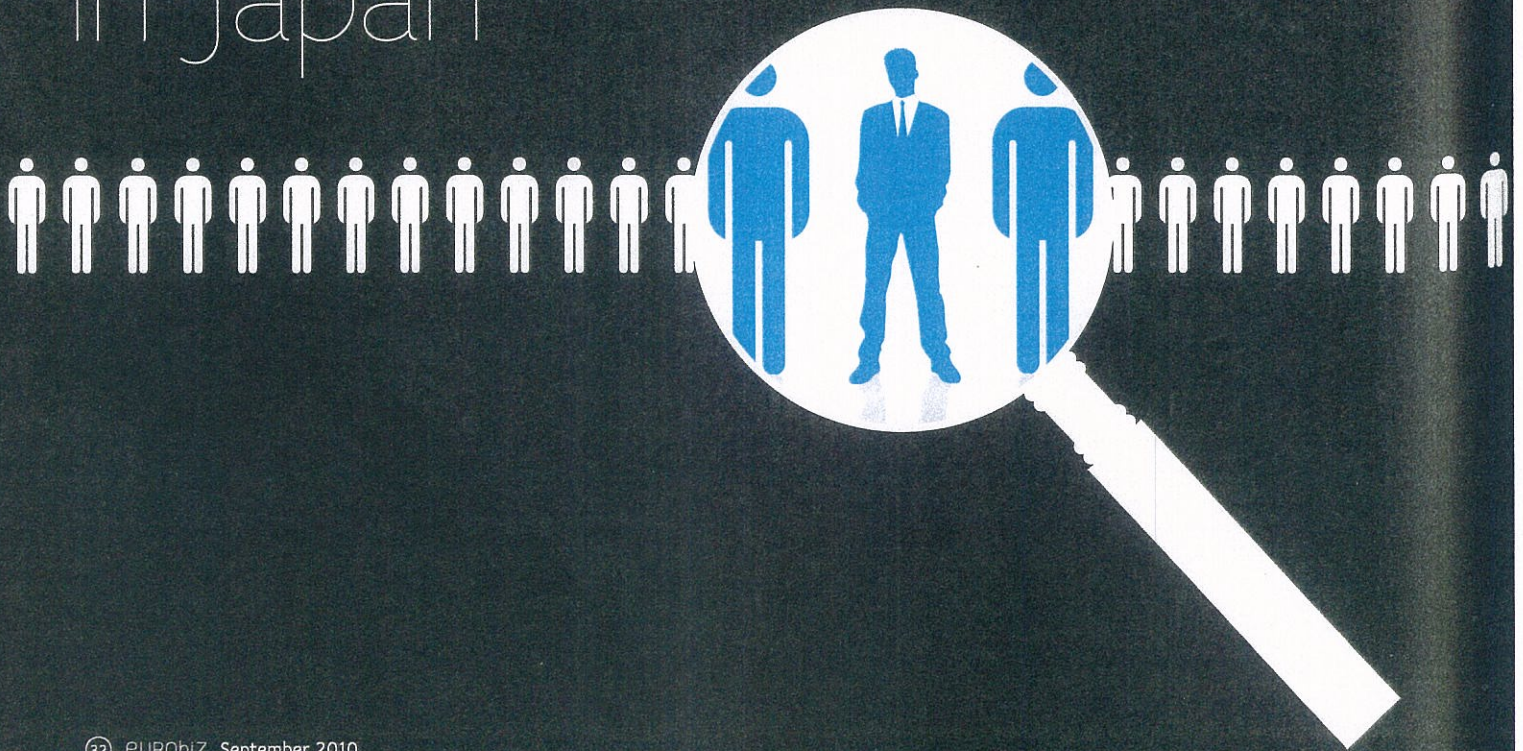


Who's Who

# HR and Recruitment Consulting in Japan



# Make or break personnel decisions

**D**o you have Rules of Employment (ROE) that give you more legal protection and the tools you need to keep people on your team and on their toes? Do you have a transfer or job change clause that includes the ability to accordingly adjust people's pay level? Do you have pay-cut language other than the Labour Standards Law maximum pay-cut of one-half a day's pay or 10% of the pay during the pay period? (That one is for disciplinary action or a specific penalty).

The power to reduce pay must come from the power of contract, but ROE have legal precedence over individual contracts. Therefore, it is important to also clearly write in the ROE that, in case of underperformance, a larger commensurate pay adjustment is possible.

Reducing people's pay is no fun for any of us. It should be rarely practiced, and usually be accompanied by a choice to take a moderate severance package. Unfortunately, the pay-reduction option, combined with modest severance, becomes important (without asking for staff 'agreement') because, otherwise, it can be just too difficult and expensive to terminate people in Japan. Asking for their agreement is wanting your cake and to eat it, too, and trying to cover the backside of your trousers with legal protection. That's too much to ask.

What if they don't sign for the pay-cut? You then put an unnecessary boulder in your path. Instead, you are implementing the pay reduction 30 days later, or even further out, to give more wiggle room.

Also, if your Japanese unit still has a defined benefit retirement plan, make sure there is a large discount between the voluntary/quitting and the

involuntary/reaching-retirement-age retirement benefit. Why make it easy for competitors to poach your people? Why not save money, and keep valuable resources for the business, and those who loyally stick to you?

And regardless of what self-interested employees, or outplacement firms charging a lot of money per head tell you, or what you are told by advisors not up to snuff and not able to deliver real value, you NEVER, NEVER, NEVER have to offer voluntary, early-out staff reduction, extra severance payment to ALL of your staff to make it 'fair'. Instead, you can be selective and hang on to 100% of the people you need, who obviously have no right to an extra severance package. And they know early on that the extra package will not be available to them – even if they whine for it.

The most unfair thing about these strategically flawed staff reductions is to make the same severance package available to those you are pressuring out, and those you are begging to stay. Those poor troopers being pressured out hate this; and for that reason alone, many will not sign the letter of 'separation' (not 'resignation' or 'termination'). This is the brake on the size of the severance package. If the extra severance payout becomes too large/rich, it is not fair to the good, needed people who have no chance of getting it. But the 'keepers' at least get to keep their nice jobs, you keep your company strong, and you get promoted (hopefully). Don't encourage good staff to leave.

As it was announced in the May 14, 2010 *The Japan Times*, bankrupt JAL did what it has always done – offering early retirement packages to ALL. Way too many pilots qualifying to fly its long-range jumbo jets resigned in



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**Don't encourage good staff to leave.**

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order to get the extra pay-out. Just as all the best cabin crew and sales staff have left JAL over the years. There will now be 'significant expenses' hiring and qualifying short-range pilots for long-range flights. Hundreds of firms in Japan and around the world have been weakened, bankrupted, and have vanished for the same reason. 