



Labor Update No.11 July, 2017

This bulletin contains information on law changes that have either passed, or are being discussed, in parliament, court decisions, and other labor issues in Japan that are of interest to activists.

1. Number of births in 2016 goes below 1 million for the first time; birth rate is 1.44, a slight decrease for the first time in 2 years

<http://digital.asahi.com/articles/DA3S12969750.html>

The number of Japanese babies born in Japan in 2016 was 976,979. This is the first time that the number of births in a year has gone below the 1 million mark. The information is from the population statistics released by the Welfare and Labor Ministry on the 2nd. The total fertility rate (TFR) was 1.44, or 0.01 points lower than the previous year. It has been two years since the number was last lower than the previous year. This is far below 2.07, the number considered necessary for maintaining the population, so population decline seems unstoppable.

TFR measures the number of children the average woman can expect to bear in her lifetime, and is calculated based on the number of children born in that year to women aged 15-49. After hitting its lowest point of 1.26 in 2005, the number gradually increased again until 2013, but from 2014 on it has gone up and down at a standstill. By age of the mother, the 35-44 group showed a slight increase, but all groups 34 years old and under showed a decrease.

The number of babies born in 2016 was 28,698 fewer than the previous year, and this was the first time since statistics began to be collected in 1899 that the number has gone below 1 million. The declining trend has continued since the end of the second baby boom in 1974, with a background of lower numbers in the parents' generation themselves. On the other hand, the number of deaths was 1,307,765, the highest it has been since the war. As a result, attrition (number of births minus number of deaths) was 33,786, the largest decline ever.

The number of marriages declined for the fourth year in a row, setting a new postwar low record at 62,523. By prefecture, Okinawa had the highest birth rate at 1.95, followed by Shimane with 1.75, then by Nagasaki and Miyazaki, both with 1.71. The lowest was Tokyo, with 1.24. Second lowest was Hokkaido with 1.29, then Miyagi and Kyoto, both with 1.34.

A Labor Ministry spokesperson said "the tendency to marry later and the declining

number of marriages are having an effect. The birth rate is predicted to keep decreasing”.

“Yearly Estimated Vital Statistics of Population for Heisei 28 [2016]” in the link below (in Japanese).

<http://www.mhlw.go.jp/toukei/saikin/hw/jinkou/suikei16/>

Summary of results in the link below (in Japanese).

<http://www.mhlw.go.jp/toukei/saikin/hw/jinkou/suikei16/dl/2016gaiyou.pdf>

2. Health, Welfare and Labor Ministry Labor Policy Council: overtime restrictions as soon as April 2019--approval for amending 3 laws

The Labor Policy Council, an advisory body to the Minister of Health, Welfare and Labor, submitted a report to Minister of Health, Welfare and Labor Yasuhisa Shiozaki on June 5 calling it “appropriate” to amend three laws, including the Labor Standards Act, in order to introduce upper limits on overtime hours. The Ministry aims to submit proposed amendments to the special session of the Diet this autumn. Leaving time for people to become informed of the changes, they plan on having them come into effect in April of 2019 at the earliest.

The contents of the report are a ratification of the “Work-Style Reform Implementation Plan” decided on by the Government in March of this year. Regarding overtime hours, the following rules were all among those described as “appropriate”: (1) the upper limit in principle shall be set at 45 hours a month and 360 hours a year; (2) the special limit for busy periods will be up to 100 hours for a single month, or up to an average of 80 hours a month for 2-6 months, within a total of 720 hours per year, and will be enforced with penalties; (3) the applying of these rules to truck driving, construction work, and medical doctors shall be postponed by 5 years.

A bill to amend the Labor Standards Act, including the creation of a “high-level professional system” to exempt certain high-income workers from limitations on working hours, has been carried over into the current session due to the opposition of the Democratic Party and others. Whether this can be compatible with an amendment to limit overtime will become a point of contention.

At the Labor Policy Council, council members on the employers’ side requested “sufficient time to become informed before the law comes into effect” as a consideration for small and medium-sized businesses. Responding to this, the report said that “in consideration of the fact that business and personnel management are run on a fiscal-year basis, the effective date will be set to the first day of the fiscal year”. The amendment will take effect on April 1, 2019, at the earliest; failing that, it is likely to take effect in the following year, on April 1, 2020.

The report also called for clearly indicating “curbing holiday work” as a duty of effort in the guiding principles of the Labor Standards Act. It also included a provision for consideration of a “work interval system”, setting a fixed amount of rest time between

finishing work and beginning the next day's work, to be deliberated on by labor and management at each company.

Proposal submitted on June 5 to the Minister of Health, Welfare and Labor by the Ministry's Labor Policy Council is in the link below (in Japanese).

<http://www.mhlw.go.jp/file/04-Houdouhappyou-11201250-Roudoukijunkyoku-Roudoujoukenseisakuka/0000166797.pdf>

3. Irregular teachers take charge of classes, club activities; 40 percent work during "blank periods": Japan Teachers' Union

A survey of irregularly-employed teachers carried out by the Japan Teachers' Union (JTU) has cast light on the situation of these teachers taking charge of classes of their own, leading club activities, and otherwise doing the same work as regular full-time teachers. Many also do work during the "blank periods" when their employment is interrupted.

JTU called on member unions, who carried out the survey via the Internet from February to April of this year. About 2 thousand people replied.

40 percent answered that they were in charge of their own class, and nearly 30 percent that they served as advisor to a club. In elementary schools many were homeroom teachers, and in junior high schools many were in charge of clubs.

The basis for employing most irregular teachers is "temporary appointment" as per the Local Civil Service Act, Article 22. In principle the upper limit for a temporary appointment is one year. In order to follow this official position, many municipalities make a "blank period" at the beginning or end of the school year. 70 percent of respondents said their period of employment was interrupted by these "blank periods", and nearly 40 percent said they had done work during blank periods, often such work as class handovers and keeping student records.

There is also deep-seated dissatisfaction with conditions, including pay. The government aims to realize "equal pay for equal work", but the Labor Contract Act and Part-Time Labor Act, on which this is based, do not apply to public servants.

1000 yen an hour, no bonus

One woman in her 40s, who has charge of a class at an elementary school in Kyushu, is one of these irregularly-employed teachers on a temporary appointment.

Her employment is from April 1 to September 30 and from October 1 to March 29. There is a two-day blank period at the end of March, and she cannot roll over her paid holidays. She participates every year in the farewell ceremony for departing teachers. She doesn't know if she will be employed for the next year until just before the start of the new school year. If she is employed, she is introduced with the new teachers in the school newsletter.

She has lost her husband, and has two children. She is on a monthly salary, but her take-home pay is just 2.7 million yen per year. “My base pay has barely changed since I started working”, she says. There were even years when she qualified for local-government assistance to pay for her children’s school supplies and school-lunch fees. “I’m working as a teacher, but still in a position to need assistance to send my own children to school. It feels as if my work is not appreciated.”

She has taken charge of a class that was difficult to teach. She was told by the principal that “if you take this class, you can stay on at this school”. When she voiced her complaints to regular-employee colleagues, she says she was told “it can’t be helped, since you’re on limited term”.

A woman in her 30s who lives in Iwate Prefecture works as a part-time teacher at a junior high school. Her period of employment is from April 1 to March 31. This is her third year. She is on an hourly wage of 1 thousand yen. There is no bonus.

She is not teach lessons on her own, but acts as an assistant in lessons other than P.E. She mostly works in classes where there are students who need special assistance. She is at one junior high school for three days a week, and another junior high for two days a week. Having lessons at more than one school, it is hard for her to grasp each class’s progress in lessons. At her interview when she was hired, she asked to “please not be sent to more than one school”, but her request was not granted.

Double the number in 10 years; employment is uncertain

According to the findings of an Interior Ministry inquiry, among irregularly-employed local civil servants, those working as teachers or instructors totaled 92,671 in 2016. This is almost double the number in 2005, and a larger growth than that of irregularly-employed local civil servants as a whole.

The Act Concerning Class-Size and the Standard of Fixed Number of Educational Personnel in Public Compulsory Education Schools was amended in 2001, allowing irregular employees to be hired using the national budget for regular teachers. In 2004, a total-sum discretion system was introduced, whereby municipalities were free to decide how many teachers to hire and how much to pay them as long as the cost was within the total amount decided by the national government. Irregular teachers are in a weak position, and their employment is not guaranteed. So it is hard for them to speak out. Their pay is low compared to the contents of their duties, and they are not provided with proper time off.

4. Women’s employment rate reaches 66%, its highest ever. But the level is low in managerial positions: Gender Equality White Paper

The Government, in a cabinet meeting on June 9, decided on a gender-equality white paper. Putting the spotlight on women’s participation, it explained that the rate of employment among women aged 15-64 in 2016 was 66.0%, the highest since statistics

began being kept in 1968. However, proportion of women in managerial positions reached only 13.0%, “a low level compared to other countries”, and pointed out the need for support for women in continuing to work and in forming careers.

The rate of employment for women has increased by 7.2 points in the past 10 years. On the other hand, the proportion of women in managerial positions shows a gap compared to Britain’s 36.0% or Germany’s 29.3%. Of the total 28.1 million women in the workforce, a total of 1.49 million were in irregular employment despite desiring regular employment. In the paper’s analysis, “the reality is that many women take irregular forms of employment against their will”, and there is a need for improvement in conditions.

Summary of Heisei 29 [2017] Gender-Equality White Paper in the link below (in Japanese).

http://www.gender.go.jp/about_danjo/whitepaper/h29/gaiyou/pdf/h29_gaiyou.pdf

<http://bit.ly/2r48ush>

5. Elder-care interns to the same number as full-timers: Welfare and Labor Ministry puts together requirements

Beginning in November, elderly-care facilities will be added to the list of workplaces that can accept foreign technical interns. In preparation, the Ministry of Health, Welfare and Labor has put together proposed requirements for accepting the interns. The upper limit on those accepted at any facility would be the same as the number of care workers already working full-time at that facility. In the future, there is a possibility that half of the staff providing services will be interns.

The announcement was made at the LDP’s Special Committee on Foreign Workers, Etc. on the 9th. That elderly care would be the first personal-service job to accept technical interns was decided in the amended Immigration Control and Refugee Recognition Act passed by the Diet in special session last year. Interns will be able to work in elderly-care workplaces for up to 5 years.

In the proposed requirements, the upper limit on technical interns accepted per year at any facility, for ordinary small-scale facilities with 30 or fewer full-timers, was 10 percent of the staff. For facilities recognized as superior by the government, such as where there was a high rate of passing technical skills tests for each type of job, the limit would be 20 percent. If interns were accepted over multiple years, the total accepted could be up to the same number as that of regular full-time staff.

6. “Equal pay for equal work” bill predicted to be submitted this autumn

The Welfare and Labor Ministry’s Labor Policy Council, which was debating the realization of “equal pay for equal work”, compiled its report on June 9. Bills to amend the necessary laws now seem likely to be submitted as soon as this autumn.

The government last year released a proposed guideline for instituting “equal pay for equal work”, where the same level of wage would be paid for the same contents of

work. Unreasonable wage disparities between regular and irregular employees would not be allowed, and it was stated clearly that in principle irregular workers should receive pay raises and bonuses.

Responding to this, the Labor Ministry's Labor Policy Council, which includes participation from both labor and management, carried on debate towards the drawing up of a bill, and this report was released.

As well as clarifying rules and standards for rectifying unreasonable wage disparities, the report also states that, in order to secure effectiveness for the government's proposed guideline, laws would have to be amended. In addition, it says companies must be made responsible to explain any disparity of conditions between regular and irregular employees, and must be forbidden from engaging in disadvantageous treatment of workers who might demand such an explanation.

Following this report, the Ministry of Health, Welfare and Labor will work on a concrete proposal for amendments to the laws, and intends to submit them perhaps as soon as this autumn's special session.

"Regarding Legislation Related to Equal Pay for Equal Work (report)" decided on June 9, 2017, in the link below (in Japanese).

http://www.mhlw.go.jp/file/05-Shingikai-12602000-Seisakutoukatsukan-Sanjikanshitsu_Roudouseisakutantou/0000167471.pdf

7. Deregulation and system review: "Regulatory Reform Implementation Plan" decided in cabinet

At the extraordinary meeting of the Cabinet on June 9, the government decided on a "Regulatory Reform Implementation Plan" for this year. In order to work towards rectifying the problem of overlong working hours, the plan makes it clear that part of the work of Labor Standards Inspectors would be outsourced privately, such as to social insurance consultants, starting with next fiscal year, fiscal Heisei 30 [2018].

This year's "Regulatory Reform Implementation Plan" includes 141 regulatory reforms and review policies that the government plans to undertake from now on.

Among these, aiming to curb overlong working hours, it is clearly stated that part of the work of Labor Standards Inspectors--such as investigating whether a company has signed so-called "3-6 agreement" (overtime agreement) with labor, would be outsourced privately to social insurance consultants, etc., starting with next fiscal year, fiscal Heisei 30 [2018].

Also, regarding so-called "mixed care", in which services covered by elderly-care insurance and those that are not covered are carried out together, it has been pointed out that there are differences between municipalities in how they deal with this. In consideration of this issue, the government also plans to make clear rules so that these kinds of care can be put together smoothly, and notify municipalities by the first half of next fiscal year.

Furthermore, in the field of business licensing and application for subsidies, in which the burden on companies is said to be heavy, the plan includes a goal of reducing the time taken by these procedures by 20% by the year 2020. Also included is a plan to consider necessary regulatory reforms aimed at making forestry and fishing into growth industries.

“Regulatory Reform Implementation Plan” decided on by the Cabinet on June 9, 2017, in the link below (in Japanese).

<http://www8.cao.go.jp/kisei-kaikaku/suishin/publication/170609/item1.pdf>