



Labor Update No.14 August, 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. Japan Professional Baseball Players' Association demands written notice of proposed amount from Nippon Professional Baseball (NPB) before renewing contracts

The Japan Professional Baseball Players' Association held a special meeting in Nagoya on the 14th. They demanded that the 12 teams give them prior written notice of proposed pay amounts before the renewal of their contracts. If this is refused, they have decided to take measures such as putting initial negotiations on hold.

The statement prepared by the Players' Association is as follows.

“Today, as a labor union, the Japan Professional Baseball Players' Association continues to demand what we have been seeking from NPB since the decision made at our meeting last December, and which they have continued to deny us: a system to allow players ‘time to think’. In concrete terms, we continue to demand a system of prior written notice of the contents of contracts, as is currently done in soccer’s J-League, for example. In case NPB should continue refusing to introduce such a system, we had no choice but to decide:

In order to make clear that this demand from the players is based on a survey of all the players, to publicly announce the results of the contract renewal satisfaction survey carried out by the Players' Association last year;

And, during this year’s off-season, in order to protect players in a weak position, such as younger players, for all players across the board to take measures such as putting their initial contract renewals on hold, unsigned.

In response, NPB countered that “The content of negotiations is more important than making the (proposed pay) numbers stand alone. Demanding notification across the board is not reasonable. It is regrettable for the Players' Association to send such a message unilaterally while we are in the middle of talking sincerely with them.”

2. 79% of irregular employees favor “equal pay for equal work”: survey of working irregular employees

A private company has carried out a “User Questionnaire: About Equal Pay for Equal Work” via the job-recruitment information website run by the company itself. Below is

a summary of the results.

Of irregular employees,

79% replied “in favor” of the idea of equal pay for equal work.

74% replied “hopeful that differences in pay depending on type of employment may disappear”.

Of regular employees, too,

69% replied “in favor” of the idea of equal pay for equal work.

Main expectations about equal pay for equal work:

- 1) Pay disparities due to form of employment will disappear
- 2) Disparities in benefits due to form of employment will disappear

49% of irregular employees replied that “there are regular employees whose pay would become the same as mine, based on the contents and amount of their work”. Of these, 30% replied that there was a difference in pay of over 1 million yen per year.

When irregular employees were asked “Are there regular employees who should receive the same level of pay as yourself, under the idea of equal pay for equal work?”, and “Are there regular employees around you who do the same type of tasks or the same amount of work?” 49% of them replied “yes”.

3. Matters related to Rengo

- 1) Over 40% of workers “don’t know about 3-6 agreements”: Rengo survey

Over 40% of working people do not know that a labor-management agreement (3-6 agreement, *saburoku kyotei*) is necessary in order for a company to order overtime work—this is the state of affairs revealed by Rengo’s survey. Due to the increasing concern with long working hours, the proportion of people aware of the system has increased, but Rengo intends to continue pushing for more awareness of it.

Rengo (the Japanese Trade Union Federation) claims that their task is “to build a society with hope and peace of mind for all working people”.

This survey was carried out by a private company commissioned by Rengo, but Rengo’s own position or decision in response to these results is not noted.

The survey, of one thousand working people from 20 to 65 years old (not including self-employed, part-timers, etc.) was carried out via the Internet in June. When asked about the fact that, for a company to order overtime work, a labor-management agreement must be signed, 56.5% answered “I know”, while 43.55 answered “do not know”.

Answers of “I know” were up by 17 points from a similar survey done in 2014. It seems that growing concern with working hours, including the overwork suicide of a Dentsu employee and the likelihood of passing an upper limit on overtime hours, with penalties, has had an effect.

By age group, just under 60% of those aged from their 30s to their 50s answered “I know”, as did just over 70% of those in their 60s. For those in their 20s it was 49.2%, lower than other age groups. Rengo (through their spokesperson) says that “It is a shame that so many people are unaware of 3-6 agreements. We wish to make efforts to make the agreements’ importance known, especially to the younger generation.”

“Survey Report Regarding Limited-term Contract Workers” in the link below (in Japanese).

<https://www.ituc-rengo.or.jp/info/chousa/data/20170720.pdf>

2) is resisted

Rengo, continuing to wander in confusion over the executive committee’s change of policy on the “High-Level Professional System” (High-Pro), which exempts high-income earners in specialized jobs from regulations on working hours, has officially withdrawn this change. They have switched again to opposing the system. One part of the executive took the lead and leaned briefly toward accepting the system, with some conditions. However, they were unable to unify the membership. The organization was thrown into confusion by all the fuss, and suffered a hail of criticism from within and without. Rengo’s prestige as a representative of workers has been seriously injured. The chair and other leaders at first were planning to sign an “ agreement between labor, management and government” on the 19th.

One industrial union leader says that “if they had gone straight into the labor-management-government agreement as is, the trouble within the organization would have continued forever”, but also expressed the opinion that on the other hand, “Once you’ve requested it and set aside resources for an agreement, you can’t just take it back. We’ve made the other side lose face, so of course it’s a problem of (the executive’s) responsibility.”

The National Association of Families Thinking About *Karoshi*, made up of families of *karoshi* victims, reconsidered their opposition to Rengo and issued a document making demands. At a press conference, representative Emiko Teranishi stated that “the problem is this truly dangerous system being set within the Work-Style Reform Implementation Plan”.

The Abe government considers an amendment to the Labor Standards Act, including an upper limit on overtime hours, as the “showpiece” of the special session of the Diet. There is no change in their plan to see it pass.

4. Labor shortage worsening

1) Individual labor dispute consultations increase rapidly: “they won’t let me quit”—Kagawa

Companies refusing to accept a resignation: Kagawa Labor Board and Labor Standards

Inspection offices in the prefecture have heard over 300 consultations of this kind every year since 2015. Companies struggling with labor shortages due to the decline in population on account of the falling birthrate and aging society seem to be preventing workers from leaving when they want to quit.

According to the Kagawa Labor Bureau, there were 1943 consultations on individual labor disputes, where workers and employers dispute working conditions, etc., in fiscal year 2016. There are some cases where one person consults on multiple issues, so the total number of issues consulted on was 2190.

320 of these consultations concerned “voluntary resignation”, asking about how to quit. Most of them were along the lines of “I was stopped from resigning” or “I want to quit the job, but they won’t let me”. In fiscal 2012 there were 122 cases, but they rose steadily, reaching 2.8 times this number, or 344 cases, in 2015.

A labor shortage seems to be behind this. The effective opening-to-application ratio in the prefecture has been over 1.5 since December 2015, and in May of this year it rose to 1.77, the seventh-highest in the nation. There are especially severe shortages of labor in the construction and mining industries, where the ratio is 6.10, in service industries, with 3.20, and in transport and machine operation, with 2.70. The Kagawa labor Bureau Division of Occupational Security is of the opinion that “with economic recovery continuing, the effective opening-to-application ratio will remain high for some time”.

So then what can one do if a company won’t accept one’s resignation? In the Civil Law there is a “freedom to resign”. If you are a regular employee, you can quit two weeks after handing in a resignation.

Kagawa Labor Bureau Office of Employment Environment and Equality explains that “in order to avoid conflict, it is best to follow company rules when communicating your desire to quit. However, you can still quit even if the company doesn’t accept it.”

2) Opening-to-application ratio for regular employment goes over 1 for the first time; unemployment down to 2.8%--June

The effective opening-to-application ratio (seasonally adjusted figure) for June, announced on the 28th by the Ministry of Health, Welfare and Labor, was up by 0.02 points over the previous month, to 1.51, the 4th month in a row of improvement. This is the highest it has been in 43 years and 4 months, since February 1974. The opening-to-application ratio for regular-employee positions was up by 0.02 points to 1.01, the first time it has gone over 1 since figures began to be recorded in November 2004. With a gentle economic recovery in the background, the sense of a labor shortage is growing rapidly stronger, not only for part-time and other irregular employment, but for regular employment as well.

According to the work force survey published by the Interior Ministry on the 28th, the unemployment rate (seasonally adjusted figure) for June was 2.8%, which was 0.03

points down from the previous month. This was the first improvement in 4 months. The opening-to-application ratio expresses the number of job openings per applicant who applies to Hello Work. In June, the overall number of openings went up by 1.5% from the previous month, while the number of applicants stayed level. Openings for regular employees went up by 1.8%, while the number of applicants went down by 0.1%.

Looking at new openings by type of work, as well as manufacturing, where automotive-related companies are doing well, there were also substantial increases in the transport and postal category and in construction, where labor shortages are severe. By location, the highest opening-to-application ratio was 2.08% in Fukui, while the lowest was 1.08 in Hokkaido.

“On the General Occupation Introduction Situation (June 2017)”, released by the Health, Welfare and Labor Ministry on July 28, 2017, in the link below (in Japanese).

<http://www.mhlw.go.jp/stf/houdou/0000172226.html>

“Work Force Survey (Basic Statistics), June 2017” released by the Interior Ministry on July 28, 2017, in the link below (in Japanese).

<http://www.stat.go.jp/data/roudou/sokuhou/tsuki/>

5. When can I start collecting a pension? Age 70 and over to be considered

The government has begun considering creating a structure for raising the age to start collecting a state pension to over 70 and including this in the Outline for Dealing with an Aging Society. The Cabinet’s panel of experts will put together a proposal to amend the outline, and the government will make a decision within the year. As this is not the committee responsible for making the pension system, the idea will not be realized right away, but it will be brought up as a matter for consideration in the mid-to-long term.

The age to start collecting a pension is 65 in principle, but any age between 60 and 70 can be chosen. Those who begin collecting from age 70 receive 42% more than those who start at 65.

At a planning conference on the 18th, chair Atsushi Seike, former president of Keio Gijuku, explained that “there is also the possibility to put off collecting, and widen the range when pensions are paid”. The aim is to support those elderly who are active and able to work. In regard to the age that pensions could be postponed to, the opinion of “75 or even more” was heard.

According to the Ministry of Health, Welfare and Labor, of those people who received only the National Pension in 2015, only 1.4% postponed collecting until after the age of 65. Since few people used the system, there were calls at the meeting for informing people of it.

The Outline for Dealing with an Aging Society is a mid-to-long-term plan for policy on the elderly, and is amended every 5 years.

Planning conference concerning basic measures to be taken to deal with an aging society: Documents distributed at the 2nd meeting, in the link below (in Japanese)
http://www8.cao.go.jp/kourei/kihon-kentoukai/h29/k_2/gijishidai.html

6. Wages not rising

1) Insufficient pay raises hold prices down by 0.2 points: BoJ Prospect Report

The Bank of Japan released its “Prospect Report (Prospects for the Economy and the Situation of Prices)” on the 21st. This details the outlook for the economy and prices for each quarter over the coming three years. In it is an analysis of reasons for the weak pace of rises in wages and prices, despite the labor shortage. The calculations show that, because pay raises are restrained, prices will be held down by 0.2 points.

With the effective opening-to-application ratio even higher than its Bubble-era peak, and unemployment down to about 3%, the labor market is in a tight situation, but the most recent figure for the consumer price index (excluding perishables, core CPI) is only 0.4% higher than the previous year. The Bank of Japan, aiming for a 2% price target, must analyze the main causes.

The BoJ illustrated how, in comparison to the period from 1983 to 2013, for the period from 2013 to 2017 rises in wages have become slow relative to the pace of improvement in the effective opening-to-application ratio.

Part-time workers’ hourly wages reflect the labor market easily, but the fixed salaries of full-time regular employees have only a small correlation with the labor market. Instead, the rate of raises in base pay has a bigger influence.

Also, it was pointed out that in the period around 1990 (corresponding to the Bubble era) and the latter half of the 2010s, growth in real wages lagged behind labor productivity. This lack of pay raises is what is holding prices down by 0.2%, according to calculations.

2) Cautious stance of labor and management is a weight; even with a labor shortage, increase in wages is weak: Economy and Finance Report

The Economy and Finance Report has analyzed why increases in wages have remained weak despite the sense of a labor shortage, with the economy continuing to recover since its low point in 2012. It points out that with the Japanese-style employment customs, including seniority-based pay and lifetime employment; both workers and company management have become cautious about pay raises. In this analysis, the influence of this attitude of labor and management makes even growing shortages in the labor market hard to be reflected in wages.

The effective opening-to-application ratio was 1.48 in April, above the level of 1.46 that it reached in July 1990 during the Bubble period. On the other hand, growth in nominal

wages, which averaged 3.6% per year from 1986 to 1991, were stuck at the much lower average of 0.4% from 2012 to 2016. The report stated that “the current labor share is lower than that of the period of economic growth from 2002 to 2008”, emphasizing that “industries have plenty of room to make wage increases”.

However, due to the long period of a weak economy after the collapse of the Bubble, workers have tended to put priority on building a stable career at one company. Therefore the tendency to accept depressed wages continues. The management side also thinks that, even if business goes badly due to sudden changes in the market situation, it is difficult to get acceptance for reducing wages. Therefore the report analyzes that “It is possible that the risk-avoidance attitude of labor and management is suppressing wage increases”.

Regarding trends in the future, the report points out that “As the labor shortage worsens and companies have more chances to take on personnel through the labor market, there will be more need to set wages appropriate to workers’ duties or abilities”. It predicts that, as work-style reforms are promoted in response to the labor shortage, there will be changes in what should be done about wages.

2017 Annual Economy and Finance Report in the link below (in Japanese).

http://www5.cao.go.jp/i-j/wp/wp-je17/index_pdf.html

7. Minimum wage 3% up, meets government target for the second year in a row. Some resistance: “a burden on small-to-mid size businesses”

The fiscal 2017 guideline for the amount of raise in the minimum wage (hourly) has been set at 3%, meeting the Abe administration’s goal for the second year in a row. Amid the debate over the government’s target, the business management side resisted, saying it “will be a burden on small and mid-size companies that are struggling”, but finally they followed the government’s plan, aimed at lifting up the economy by raising wages.

The Health, welfare and Labor Ministry’s Central Minimum Wage Council subcommittee meeting to debate the amount of raise in the minimum wage entered final deliberations on the afternoon of the 25th. The discussions, which included representatives of labor groups and business organizations as well as experts, reached a conclusion that night.

The goal of raising the minimum wage guideline by 3% every year until the national average reaches 1000 yen was included in the “Work-Style Reform Implementation Plan” put together by the government in March. This year’s debate proceeded with that plan in mind. The labor side insisted on larger raises, saying “the minimum wage should be 800 yen or more in every prefecture within three years”.

On the other hand, the business side showed a cautious attitude to raising wages, saying that with the business sentiment diffusion index continuing to be negative and business prospects tough, “the debate should account for the realities of small and mid-size businesses”.

However, some economic organizations were also accepting of raises. Yoshimitsu Kobayashi, chairman of Keizai Doyukai (the Japan Association of Corporate Executives), said in a press conference on the 25th that “For small and medium-sized companies, abrupt raises can damage business, but they are not all bad. A 2 or 3 percent raise may be necessary, including for stimulating consumption”.

Nevertheless, it is not clear whether 3% raises will continue from now on. An important data point for reference in deciding the guideline for minimum wage raises is the wage growth rate in medium and small businesses. This year, this number was 1.3%. This was 0.2 points higher than the previous year, but still far from the target of 3%. The government’s goal has been reached for the second year in a row, but the situation is not one where small businesses’ ability to pay can be said to have gone up enough.

Minimum Wage Act, Article 1 (Purpose)

Article 1 The purpose of this Act is to improve the working conditions of low-paid workers by guaranteeing a minimum level of wage for them, thereby contributing to securing the worker's livelihoods, the improvement of the quality of the labor force, and ensuring fair business competition as well as to the sound development of the national economy.

Central Minimum Wage Council (guideline subcommittee) in the link below (in Japanese):

<http://www.mhlw.go.jp/stf/shingi/shingi-tingin.html?tid=127941>

8. Legal violations

1) Illegal Overtime at 10,000 workplaces—last year’s Ministry citations

The Health, Welfare and Labor Ministry announced on the 28th that, having conducted on-site inspections in fiscal year 2016 at 23,915 workplaces suspected of overlong working hours, they were able to confirm illegal overtime (such as hours in excess of labor-management agreements) at 43% of them, or 10,272 workplaces. Of those workplaces where violations were found, over half (54.1%, or 5,559 places) had employees working over 100 hours of overtime and holiday work in a month.

The Ministry’s Labor Standards Inspection Offices carried out on-site inspections at workplaces where employees were said to have worked over 80 hours of overtime in a month. Because the standard for hours of overtime subject to priority supervision was lowered in April 2016 from “over 100 hours a month” to “over 80 hours a month”, the number of workplaces subject to on-site inspection was much larger than the 2015 figure of 10,185.

The proportion of workplaces with confirmed Labor Standards Act violations relating to long working hours was 43.0%, down from 56.7% in fiscal 2015. According to the Labor Ministry, there are a certain number of workplaces where special provisions in a labor-management agreement set the overtime limit at 80-100 hours, and there were some cases where a company was subject to on-site inspection, but turned out to be

within the bounds of such an agreement.

Apart from cases of overlong hours, 1,478 workplaces (6.2%) received citations from the Labor Standards Inspection Offices for not paying the appropriate overtime pay.

“Results of Supervisory Guidance at Workplaces Suspected of Long Working Hours” in the link below (in Japanese):

<http://www.mhlw.go.jp/stf/houdou/0000172536.html>

2) Unpaid overtime for “managers in name only”: citation issued to security company

The Sendai branch of a security company that does business nationwide has received a citation from the Labor Standards Inspection Office for considering 12 employees, who were not legally in the category of management, as “managers” and failing to pay them a total of about 20 million yen in overtime.

According to the Sendai Labor Standards Inspection Office, the company’s branch in Sendai City considered 12 employees, not in the category of “managerial or supervisory personnel” as defined in the Labor Standards Law, as “managers”, therefore not paying them 2 years’ worth of overtime pay, a total of about 20 million yen, that was actually required to be paid.

Moreover, there were cases where they were made to work over 200 hours of overtime in a month, greatly in excess of the limit set by labor and management according to the law.

Because of this, in May of this year, the Sendai Labor Standards inspection Office gave the company a warning not only to pay the unpaid overtime, but to correct their work management.

At the same security company, there are about 250 employees working at other branches who may possibly have overtime unpaid, and the investigation is continuing. The company has stated that “we take this warning sincerely, and intend to deal quickly with the points that need improvement”.