



Labour Update

労組周辺動向 No. 159



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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. Law/Policy

(1) 188th Labor Policy Council Labor Conditions Subcommittee Meeting (Documents)

“Proposal to Amend Part of the Standards Relating to Limited-Term Labor Contract Signing, Renewal and Termination (Summary)” Feb. 14, 2023, MHWL Labor Policy Council, Labor Conditions Subcommittee (188th mtg.)

<https://www.mhlw.go.jp/content/11201250/001057849.pdf>

(2) Unemployment benefits: shortening of two-month wait time under consideration--PM states clearly, to encourage changing jobs

In regard to the unemployment benefits provided to those who have lost their jobs, the national government has entered deliberation on revising the current system, which, for those who quit a job by their own choice, imposes a two-month wait before they can receive benefits. At the “Conference on Realizing a New Capitalism” held by the government

on the 15th, Prime Minister Kishida stated that “in order to make movement of labor smoother, we will carry out revisions to the system of unemployment benefits for those who leave a job by choice”.

The government says that, through “skilling”, or training new skills, and movement of labor, they hope to promote increases in workers’ wages. In order to make it more possible for workers to change jobs on their own initiative, it was stated at this day’s meeting about shortening or eliminating the limit period for receiving benefits that “it ought to be given serious consideration”. The government will consider including this in the plan to be drawn up by the end of June.

2. Legal Violations/Disputes

(1) Fewer than half of researchers switch to unlimited-term employment; the rest fear being laid off

Researchers who are hired on limited-term contracts at universities and research institutions, and who work there for ten years, can switch to unlimited-term employment if they wish. With this rule, based on the amended Labor Contract Act, about to come into force this spring, the Ministry of Education, Culture, Sports, Science, and Technology (MEXT) has carried out a nationwide survey, whose results they released on the 7th. It became clear that the proportion of researchers expecting to be able to get unlimited employment was fewer than half. There is a worry that most of the rest may be laid off.

The survey asked a total of 846 public and private universities, research and development corporations, and inter-university research institutes about the situation as of September 1, 2022. There were answers from 681 institutions.

At the institutions subject to the survey, the total number of people who would have been under contract for 10 years by the end of March 2023 was 12,137. Of these, 69 (0.6%) had already signed unlimited-term contracts; 401 (3.3%) were planning to sign such contracts in April 2023; and 5,424 (44.7%) were expecting to be able to switch to unlimited-term.

According to the survey, the number of people about whom it was “undecided” whether to continue or terminate their contracts was 4,997 (41.2%), while the number whose limited-term contracts were being terminated for reasons other than the person’s own choice was 1,002 (8.3%). As for reasons for these terminations, the largest number of institutions, 52.4%, said the reason was “in order to build a better environment for education and research by regularly turning over staff”. The second largest group, 25.6%, said the reason was “the project that the person in question is involved in is coming to an end”. Only 6.1% of institutions said that the researchers had “problems with work attitude, ability, etc.”.

The survey also made it clear that some research institutions’ explanations of the rule to

their researchers were inadequate. As of January 2023, the proportion of institutions saying that they had “conveyed to researchers whether or not they were subject to the 10-year exception [as opposed to the usual 5-year rule]” was only 55.2%. The number saying they had “explained the procedure to apply for an unlimited-term contract” was only 49.5%, less than half.

The national government, in order to encourage research competition and produce results, has been reducing the amount of subsidies for operating costs in exchange for giving out “competitive funding”, a budget measure that lasts for a number of years up to about ten years. For this reason, universities and research institutions have been reducing the number of people in unlimited-term employment and increasing the number of limited-term posts.

According to MEXT, of researchers under age 40 at national universities, the proportion on limited-term contracts increased from 38.7% in 2007 to 68.2% in 2021.

As long as there is no prospect of stable funding, the fear of layoffs will not go away. In regard to this problem, three team leaders at the Physical and Chemical Research Institute (RIKEN) sued seeking continued employment last year. The case is currently being fought in court. According to the RIKEN union there are about 380 researchers who face losing their jobs at the end of March. However, in regard to the MEXT survey, the Ministry says it does not plan to publish data broken down by institution.

“Results (Main Items) of ‘Survey on the Employment Situation of Researchers, Teachers, Etc.’ (Reiwa 4 [2022]) Released” Feb. 7, 2023, MEXT

https://www.mext.go.jp/content/20230207-mxt_kiban03-000027043_1.pdf

(2) Four part-time lecturers at Handai sue seeking unlimited employment: Osaka District Court

Four part-time (*hijokin*) lecturers in their 50s and 60s--all of whom have worked for longer than five years under limited-term employment contracts with Osaka University (Handai), located in Suita, Osaka--have filed suit against the university in the Osaka District Courts, seeking confirmation of status and claiming they were given notice that they would lose their jobs instead of being switched to unlimited-term contracts.

According to the lawsuit, the four taught lessons at Handai under repeatedly renewed outsourcing (*gyomu itaku*) contracts, which they had signed between Heisei 19 and Heisei 25 (2007-2013). In Reiwa 3-4 (2021-22) they applied for unlimited-term employment, but were denied it and told that “this law does not apply to you”.

MEXT issued a notice in 2021 that “it is inappropriate to put persons in *de facto* charge of lessons who are not directly employed”. Handai responded by putting all their part-timers, including these four, onto direct employment contracts last year; but based on the contract, the four will have their employment terminated at the end of March.

The plaintiffs point out that whether or not the contract counts as an employment contract should be judged by the real working situation. Even under the outsourcing contracts, they did the work of planning lessons, teaching and grading under the direction of Handai. Therefore they claim that “the reality was that we qualify as workers protected by the Labor Contract Act”.

(3) Union makes demand to apply agreement citywide: Fukuoka water meter inspectors' minimum pay

A union of non-regular workers at multiple companies with outsourced contracts to do water meter inspection work for Fukuoka City sent a demand to the prefectural governor of Fukuoka on the 9th, asking that the agreement they have with two of these companies be extended to cover the entire city. If this is accepted, the minimum hourly pay set by the agreement will apply to all these workers all over the city. With more and more local governments outsourcing public works to private companies, the aim is to stop companies' competing to lower working conditions.

The demand on the 9th was sent by Jichiro Fukuoka Water Service Employees' Union. According to the demand, the city of Fukuoka has outsourced water meter reading and billing work privately since 2009, divided into eastern, central and western districts. The union signed a labor agreement last month with Veolia Genets (Tokyo) for the eastern district, and with Daiichi Kankyo (Tokyo) for the central district; the agreement sets minimum hourly pay at five levels based on working hours, etc., from ¥1,082 to ¥1,605.

(4) Sharp rise in number of consultations from freelancers: more than 10,000 cases since start of service

The number of calls to “Freelance Trouble 110-Ban”, a service for people working freelance to consult for free with lawyers about labor issues, has increased rapidly; in the two years since the service began, there have been more than 10,000 consultations. While freelance work-styles spread to a wider and wider range of occupations, freelancers' weak position relative to their clients has led to frequent trouble including non-payment of fees. There are also new problems arising, such as “fake freelancing”, when someone who works the same way as an employee, but is treated as a freelancer.

The consultation service is operated by the Dai-ni Tokyo Bar Association, which was commissioned to do so by the MHWL. Lawyers with knowledge of labor issues hear consultations by email, phone, and in person.

The service began in November of 2020; the number of consultations in 2021 was about 350 per month. That increased to 500-600 per month in 2022; by the end of last year, the total number of cases heard was 10,541. Lawyers in charge express surprise that “the number of consultations exceeded our expectations”.

Trouble 110-Ban (0120-532-110) is open from 11:00 A.M. to 7:30 P.M. every day, ex-

cept for weekends and holidays. Depending on the details of the problem, the lawyers can also put a freelancer in touch with the Labor Standards Inspection Office or the Fair Trade Commission.

(5) Tokai University Junior-Senior High School receives citation for non-payment of overtime to teacher: “with club activities, there is almost no time off”

It has come to light that Funabashi Labor Standards Inspection Office has issued a citation to Tokai University Urayasu Junior-Senior High School (Urayasu, Chiba), for non-payment of overtime to a former teacher in his 20s. The citation is dated December 27, 2022.

The man was the main adviser to a sports club at the school; including coaching at matches, he worked continually all day including weekends. He says of the process that led him to quit that “I did the work, thinking that ‘this is what’s normal’ for the job of a teacher, but after a month with hardly any day off at all, I noticed that I was in tears, and started worrying whether I could continue in the teaching profession”.

(6) QB House hairdressers sue for overtime pay: “the real employer is the company”

Eight hairdressers working for barber-shop chain QB House filed suit in the Tokyo District Courts on the 14th seeking payment from QB of about ¥28 million in unpaid overtime. The hairdressers are employed by area managers who have outsourced contracts (*gyomu itaku*) with the main company. However, they insist that QB itself is *de facto* their real employer.

According to the suit, the plaintiffs work at locations run by an area manager in Kanagawa, and they did a total of about 50 hours per month of overtime work between April 2020 and November 2022. They each received between ¥70,000 and ¥90,000 as overtime pay; however it was not clear how many hours this pay was for, and they insist their overtime was not paid properly.

3. Situation/Statistics

(1) Real wages decline 0.9% in 2022 due to inflation: first drop in two years

The MHWL released its Monthly Labor Statistics Survey (Preliminary Figures) for 2022 on the morning of the 7th. Total cash earnings, expressing the average amount of wage earned per worker (nominal wage) is adjusted to account for inflation in prices; this is termed the “real wage”, and this declined by 0.9%. It is the first time in two years for this figure to decrease. This was influenced by the 3.0% rise in the consumer price index in 2022.

“Monthly Labor Statistics Survey, Reiwa 4 [2022] Results, Preliminary Report” Feb. 7, 2023, MHWL

(2) Negative impact on pay raises at smaller companies? Toyota renews requests for reduced prices of parts

Toyota Motor Corporation is about to re-start its regular requests for reduced prices on parts it buys from subcontracting companies. This is gathering more attention than before: what effect will this have on the building of an environment for small and mid-size companies to pass on increased costs appropriately, so as to make it easier for them to raise wages? If the price reduction demands are renewed at this time, will this not have a negative influence on group companies' wage negotiations, or on wage increases at business partner companies that do not have a union?

Toyota will be renewing its requests for lowered prices for the first time in a year at about 500 primary parts producers, excepting certain small companies. These regular requests were put in hold in fiscal 2022, in consideration of reduced production.

Against this background, the requests to primary parts makers to lower their prices could lead, when they buy from secondary makers and so on, to eating into the funds available for dealing with passed-on costs. This would be a hindrance to the movement to spread fairness in business over the whole supply chain. The contracting companies are likely to be unhappy.

(3) "Not eligible for workers' compensation": domestic helpers' work-style--MHWL does a survey for first time in 60 years

As so-called domestic helpers or housekeepers begin suing in court and seeking improved conditions, claiming among other things that it is outdated to hold them ineligible for workers' compensation, the MHWL has begun a study of their real working conditions, hoping to get a grasp of these workers' work-styles.

In regard to domestic workers, the national government has held that--since they work in a family home under a private contract between individuals, do not have clear working hours, and otherwise are different from ordinary workers--they are not covered by the Labor Standards Act. Except for situations in which they work under the direction of an agency, they are considered ineligible for workers' compensation as well.

Meanwhile, not only have there been lawsuits claiming that this treatment is outdated, but an NPO has also gathered more than 30,000 signatures on a petition seeking improvement.

(4) Number of foreign workers reaches over 1.82 million, new high record; about one in four are Vietnamese

According to the MHWL, the number of foreign nationals working in Japan, as of last October, was 1,822,725. This is 95,504 (or 5.5%) more than the same time the previous year,

and a new all-time high record.

The number of foreign workers in Japan has trended upward since the Ministry began keeping track in 2007; due to the effects of the COVID-19 pandemic, the increase rate fell to 0.2% in the period leading up to the year before last, but now it has bounced back.

By nationality, the largest number were Vietnamese, accounting for 462,384 people or approximately one-fourth of the total. The second-largest group was Chinese, at 385,848, followed by those from the Philippines, at 206,050.

Meanwhile, the number of Technical Interns was 343,254, or 2.4% fewer than the previous year, making two years in a row of decreases in this number; it appears that pandemic border measures had some effect on this.

“Reporting Situation of ‘Employment Situation of Foreign Nationals’ Summarized (As of end of October, Reiwa 4 [2022])” Jan. 27, 2023, MHWL

<https://www.mhlw.go.jp/content/11655000/001044543.pdf>