



## Labor Update No.16 September, 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. Law/Policy

- (1) Paid holidays to be provided to workers immediately after changing jobs: government may amend guideline as soon as this autumn

In order to encourage companies to give annual paid leave to workers who have just changed their job, the government has made a plan to amend their guidelines for businesses on how to manage working hours—"Guidelines for Improvement of Working Hours Arrangements"—as early as the autumn of this year.

The government's Regulatory Reform Promotion Council has suggested introducing a system where one day of paid leave would be given on the first day on the job, and then one additional day would be given for each month of continued employment.

As this guideline amendment will not be binding, there is a chance that some may call for amending the Labor Standards Act itself.

Current "Guidelines for Improvement of Working Hours Arrangements" linked below (in Japanese):

<http://www.mhlw.go.jp/general/seido/roudou/jikan/dl/honbun.pdf>

- (2) Work-style reforms at small and mid-size companies: 3 gov't work groups to consider plans

As part of its "work-style reforms", the government will set up three work groups made up of members of relevant ministries to deliberate on plans for correcting overlong work hours at small-to-mid-size companies and small-scale businesses, raising the minimum wage, etc. They seem likely to begin work as soon as September.

- (3) "Work-style reform" support facilities in the prefectures for the purpose of assisting small and medium-size companies that regulate overtime

The main measures that the Ministry of Health, Welfare and Labor will include in their budget request for 2018 in order to realize work-style reforms were made clear on the 22<sup>nd</sup>. As well as giving new support to small-to-mid-size companies that place an upper limit on overtime hours, they will set up "Work-style Reform Promotion Support Centers" (working name) in every prefecture to give advice on improving conditions for

irregular employees and on preventing overwork.

As a measure aimed at realizing “equal pay for equal work”, they will add a provided amount as a “Career-Up Grant” to companies that introduce the same wage regulations and benefit system for both regular and irregular employees.

- (4) Number of Labor Standards Inspectors, in a chronic shortage, to be increased by 100

The government has settled on a plan to increase the number of Labor Standards Inspectors, specialized personnel of the Labor Standards Inspection Offices, by 100 next year.

The Labor Ministry will include the relevant budgeting in their budget request for fiscal 2018. Labor Standards Inspectors carry out on-site inspections at companies and issue citations and guidance for reform. They also hold judicial police authority to arrest violators and file criminal charges. As of fiscal 2016, there were 3,241 inspectors posted at 321 Labor Standards Inspection Offices across the country, but the number per 10,000 workers was 0.62, fewer than the developed countries of Europe such as Germany (with 1.89) or Britain (with 0.93).

- (5) Improving teachers’ overlong work hours: support staff to help with office work; an additional 3,800 teachers requested

In order to improve the situation of overlong working hours for teachers, the Ministry of Education has decided on a new system where “School Support Staff” will be posted to public elementary and junior-high schools nationwide to carry out office work on behalf of teachers.

They aim to employ 3,600 people, mainly in larger schools. Making printouts and copies, preparing for meetings, and other miscellaneous office work is said to be one cause of teachers’ feeling of pressure, so the plan is to lighten the burden by using outside staff. The Ministry will cover one-third of the cost of employing them.

In addition, the Education Ministry has also settled on a plan to make a request to the Finance Ministry to increase the set number of teaching staff in public elementary and junior high schools by 3,800 for the 2018 school year.

Under the curriculum guidelines beginning in 2020, English will become an official subject in elementary schools, and Grades 3-6 will see their classes increase by 1 *koma* (45 minutes) per week. To deal with this, the number of full-time teachers will be increased by 2,200. An increased number of full-time teachers will make it easier for homeroom teachers to take breaks and spend more time on lesson preparation. In junior high schools, the number of teachers taking charge of student counseling to deal with bullying, school non-attendance and so on will be increased by 500. The number of office staff will also be increased by 400, and the environment will be improved, including for those in administration, to make it easier for teachers to focus on lessons.

Also, at elementary and junior high schools, teachers in charge of special classes,

where students with developmental disabilities can learn in a separate room if necessary, and those in charge of helping foreign students who need Japanese language assistance will be increased by 385.

## 2. Legal Violations/Fights

### (1) Welfare and Labor Ministry's "black companies list" reaches 401; includes HIS and Waterworks Bureau

The Welfare and Labor Ministry has updated its list of businesses that have violated laws relating to labor standards, popularly known as the "black companies list".

The first published list consisted of 332 companies, but that number has increased to 401 as of the August update.

Companies' names remain on the list for one year after being announced by a prefectural Labor Bureau. The Ministry plans to continue updating the list regularly from now on.

"Publicized Cases Concerning Violations of Labor Standards-Related Laws (cases publicized in the period from October 1, 2016, to July 31, 2017)" linked below (in Japanese):

<http://www.mhlw.go.jp/kinkyu/dl/170510-01.pdf>

### (2) Pay ceiling for irregular teaching staff: bylaws in 38 prefectures

It has become clear that 38 prefectures are keeping temporary teachers' salaries low by setting special rules for them to avoid having their pay go up by age, etc., in accordance with the salary table determined by the Local Civil Service Law. These teachers work as irregular employees, but do almost the same work as regular teachers, including serving as homeroom teachers and coaching student club activities.

The Ministry of Internal Affairs and Communications has pointed out the possibility that there may be problems with the running of this salary system.

In nine prefectures, including Osaka and Okayama, these teachers pay goes up with age and experience in accordance with the salary table. But 38 prefectures, including Kumamoto and Ibaraki, set an upper limit via ordinances or bylaws separate from the table. In Kagoshima Prefecture, the highest salary on the salary table is 405,600 yen per month, but a regulation sets the upper limit for these teachers at 221,200 yen per month, equivalent to the salary for someone in their late 20s.

### (3) "Todai is obstructing conversion to unlimited-term": unions complain of employment crisis for 8,000 irregular faculty

The University of Tokyo Faculty and Staff Union and the Union of University Part-time Lecturers in the Tokyo Area held a press conference at the Labor Ministry Press Club in Kasumigaseki, Tokyo, on August 23 to complain that the University of Tokyo (Todai) is refusing to comply with unlimited-term conversion (the 5-year rule) for limited-term employees, which is set to begin next April.

They claim that “Left as is, this means 8,000 irregular-contract faculty losing their jobs” and that “there is a chance this situation might have repercussions at other universities”.

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“Todai rules” taking precedence over Labor Contract Law?

When Todai became a University Corporation in 2004, it created the “Todai rules” for limited-term employment, including setting the upper limit for such employment at 5 years. The upper limit was set in order to distinguish limited-term from unlimited employment.

According to the unions, Todai claims that because this upper limit predates the amendment to the Labor Contract Act, dismissals would be valid. The unions, on the other hand, insist the rule should not be valid, saying that “Either way, it violates the spirit of the law in terms of employment security”.

This is not the only thing the unions regard as a problem. In November of 2012—after the Labor Contract Act was amended—Todai changed these “Todai rules”. At this time, in relation to re-employment of part-time faculty, the “cooling” (gap) period was changed from three months to nine months.

In Todai’s records, there is a mention of the reason for this change being “due to the amendment in the Labor Contract Law”. But although the change was disadvantageous to workers, there was no labor agreement.

According to the unions, Todai has suggested having a test, with those who pass being employed as full-timers, as a means of unlimited-term conversion. However, the unions point out that this is still against the spirit of the Contract Law, and that it lacks consideration of those who have no choice but to work part-time.

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Also a possibility of about 10,000 people being affected

According to the unions, Todai has about 2,700 irregularly-employed full-timers, and about 5,300 irregular part-timers. But in addition to these 8,000 people, Todai also seems to have at least over 1,200 adjunct lecturers. The university had previously treated these adjunct lecturers as subcontractors (*gyomu itaku*). But at this spring’s collective bargaining, they are said to have recognized them as workers. These people’s unlimited-term conversion also seems likely to become an issue in the future.

Based on collective bargaining, 480 people who have been working since before the university became a corporation in 2004 plan to be converted to unlimited-term. However, a total of about 10,000 people are in an uncertain position due to the 5-year limit and the cooling rule.

### 3. Situation/Statistics

#### (1) Time off for teachers: widening movement to create “closed-school days”

Amid concerns over schoolteachers’ long working hours, in order to encourage them to take breaks, a move is widening across the country to create “closed-school days” when all a school’s work will stop, mainly during the Obon period.

About these “closed-school days”, the Education ministry says that “All the work of the whole school will be put on hold, making it easier for teachers to take days off. We think it will be an effective measure as part of work-style reforms”.

#### (2) Credit Saison to make all employees regular (*seishain*) starting in September

Major credit-card company Credit Saison announced on the 14<sup>th</sup> that they would abolish four different employment categories, including *shokutaku*, and consolidate all employees except *arubaito* into the *seishain* category of regular employment. By adopting a common personnel system for all employees under the banner of “equal conditions for equal work”, they aim to secure people amid a worsening labor shortage.

They will introduce the new system on September 16. It will apply to about 2,000 people. Currently, they are employed differently, as *shokutaku*, *semmonshoku* (specialists), part-timers working at call centers, etc., and there are gaps in the pay system, among other things, between them and employees in regular positions. The company will abolish these distinctions, make everyone a full regular employee (*seishain*) on an unlimited-term contract, and unify the system of pay (including bonuses) and benefits. For an evaluation system, they will introduce a system of ranks based on work roles.

In order to allow flexibility for workers with constraints on their work style, they will also introduce the ability to take paid leave by the hour, as well as a system of shortened working hours for reasons other than childcare or elderly care.

#### (3) Teikoku Data Bank publishes company attitude survey on promoting women (2017)

On August 15, Teikoku Data Bank Co., Ltd., published the results of their “Survey of Company Attitudes on the Promotion of Women”.

The survey results are summarized below.

- Although 49.2 percent, or nearly half, of companies have no women in management positions, the number of companies reporting “over 30%” has increased, so that the average proportion of women in management is 6.9%, or 0.3 points up from the previous year. Also, the average proportion of women to total employees is 24.6%, up by 0.4% from the previous year; and that of women executives is 9.3%, up by 0.6 points from the previous year.
- In companies whose president is a woman, the rate of women in management is 20.5% and that of executives is 40.0%: more than 10 points higher than in companies whose president is a man.
- 24.0% of companies expect their percentage of women in management to increase in

the future.

- Regarding the employment and promotion of women, while 43.0% of companies (more than four-tenths) responded that they “are making efforts to utilize and promote personnel within the company”, but only 12.7% said they are “making efforts to employ and promote from outside”. Regarding the effects of this, those answering that they “had been able to make use of capable personnel, regardless of sex” stood out at approximately seven-tenths. Companies with large numbers of employees were especially likely to have a high opinion of effectiveness.

- Regarding what measures were most essential for society as a whole in order for women to play more of a role, the greatest number, 58.8%, answered “improvement in quality and quantity of daycare and early-childhood education”. This was followed in order by “eliminating the waiting list for children”, “broadened support for single-parent households, etc.”, “improvement in work conditions (such as equal pay for equal work)”, and “correction of the problem of long working hours”.

Details linked below (in Japanese):

<https://www.tdb.co.jp/report/watching/press/pdf/p170802.pdf>

(4) Minimum wage: national average raise of 25 yen to 848 yen per hour

It has been decided that the minimum wage companies must pay employees will be raised by a national average of 25 yen to become 848 yen per hour.

The 25-yen raise is the same as last year’s amount, which was the largest since the minimum wage began to be shown in hourly terms in 2002.

By prefecture, the highest minimum wage will be Tokyo’s 958 yen. Next is Kanagawa with 956 yen, followed by Osaka with 909 yen: each a raise of 26 yen.

On the other hand, the lowest numbers were in the eight prefectures of Kochi, Saga, Nagasaki, Kumamoto, Oita, Miyazaki, Kagoshima and Okinawa, where the minimum was raised by 22-23 yen to 737 yen.

The new minimum wages will take effect in order starting on the 30<sup>th</sup> of next month.

The Labor Ministry announcement is linked below (in Japanese):

<http://www.mhlw.go.jp/stf/houdou/0000174622.html>

(5) Over 80% “don’t know” about right to unlimited-term conversion, 70% not given bonuses: Rengo survey

According to a survey of limited-term contract workers recently carried out by the Japanese Trade Union Confederation (Rengo), regarding the amended Labor Contract Act’s rule that workers can change to an unlimited-term contract under certain conditions, it appears that over 80% answered that they did “not know” the contents of this rule. The gap between irregular and regular employees is as deep as ever, with seven-tenths of irregular employees answering that they were not eligible for bonuses. To the question of where they had heard about the existence or contents of the rule, 50.7% answered “mass media”, while a mere 35.9% replied “explanation by employer”.

With the rule soon to go into motion, there is worry of dismissals to evade the law beginning this Autumn.

On the other hand, a full 54.5% agreed with the statement that the rule “is meaningless because it only says the contract term will become unlimited, and doesn’t mean conditions will become equal to those of regular employees”. Although this number is down by 14 points compared with four years ago, it still means that over half have a cold view of the change.

This suggests that in order to get and keep workers to deal with the labor shortage, not only unlimited-term contracts, but improvement in conditions will also be necessary.

In connection with the “prohibition of unreasonable labor conditions (Article 20)” newly added to the amended law, they also asked about the current disparities.

Only 4% said they received bonus (lump sum) payments based on “the same contents/standards as regular employees”. “Different contents/standards” was 25%, and a full 71% said they were not eligible. The government’s “Equal Pay for Equal Work Guideline Proposal” states that lump-sum payments should be made according to the same standards as those for regular employees. Regarding severance pay, just over 10% had any, while 88% said they were not eligible.

In connection with other benefits, those who answered that they “were unable to make use of” them, by item, were: 36% for cafeterias, 45% for parking, 17% for break rooms, 45% for special leave for weddings and funerals, 51% for education and training, and 32% for health checks. For each item, the number answering “unable to make use” was about 10-20% lower for those who answered that there was a union in their workplace.

(6) Shortage of regular employees at 45.4% of companies, a new record. Shortage of regular employees severe in information services industry, that of irregular employees in restaurant industry

Teikoku Data Bank has published a “Survey of Trends in Companies Dealing with Labor Shortages”.

#### Survey results

1. 45.4% of companies answered that they are short of regular employees. This is an increase of 1.5 points over 6 months ago (January 2017), and an increase of 7.5 points over 1 year ago (July 2016). The shortage of regular employees is at an all-time record since this survey began in May 2006. By industry, “information services” topped the list at 69.7%, nearly seven-tenths. Next, “household appliances and information devices retail”, “broadcasting” and “transport and storage” all had shortages at over six-tenths of companies; 10 more industries, including “construction”, had them at over half. By company size, “major corporations” had shortages at 51.8%, over half of companies; the larger the company size, the more shortages are being felt, and this tendency is getting even stronger. The labor shortage at large companies is also having an effect on smaller companies’ ability to secure personnel.
2. As for irregular employees, 29.4% of companies are feeling a shortage. This number

is down by 0.1 points compared to six months ago, but 4.5 points up from one year ago. By industry, the numbers are highest in such industries as “restaurants”, “electricity, gas, water and heat”, and “miscellaneous retail”. Of the top ten industries on this list, seven are retail or services for individual customers, so the rate of labor shortage is high in fields that involve a large amount of direct contact with consumers. By size, the feeling of shortage is stronger the larger the company; just as with regular employees, “major corporations” are feeling especially deep shortages.

Details linked below (in Japanese).

<http://www.tdb.co.jp/report/watching/press/pdf/p170804.pdf>