



Labor Update No. 17 October , 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) Work-hours management for teachers requested: Central Council for Education subcommittee takes concrete measures to control long hours

A special subcommittee of the Central Council for Education, an advisory body to the Education Minister, put together a set of concrete measures to be taken by principals and boards of education in regard to “work-style reforms” in the school workplace on the 29th, and submitted this to the Ministry as an urgent proposal. It included use of timecards and information technology to record starting and finishing times, as well as other measures such as the use of answerphones to respond to night-time inquiries.

The proposal requested schools to manage working time properly. A survey by the Ministry in 2016 found that fewer than 30 percent of elementary and junior-high schools recorded teachers’ finishing times with timecards or an in-school system. About 60 percent responded that “administrators confirmed times via reports, roll-calls, or visual observation”, while approximately 10 percent answered that they did “not do anything in particular”.

Also proposed was the idea that, during long holidays such as the summer vacation, a certain period be set as “school closing days” when teachers do not come to work. Regarding club activities, a main cause of burden on junior-high teachers, the proposal is to set rest days and appropriate activity hours, as well as employing outside specialists to lead the activities.

“Urgent Proposal on Work-Style Reforms in Schools” linked below (in Japanese):

http://www.mext.go.jp/b_menu/shingi/chukyo/chukyo3/079/siryo/_icsFiles/afieldfile/2017/09/01/1395044_2.pdf

- (2) Labor and Welfare Ministry announces the start of a “Campaign to Promote Efforts on the Unlimited-Term Conversion Rule”

A two-month campaign will be carried out from September 1 to October 31, 2017, including requests for cooperation with notices and education for business owners, etc., as well as the opening of special consultation desks at prefectural Labor Boards.

Details are linked below (in Japanese):

<http://www.mhlw.go.jp/stf/houdou/0000175863.html>

“Campaign to Promote Efforts on the Unlimited-Term Conversion Rule” page linked below (in Japanese):

<http://muki.mhlw.go.jp/campaign/20170901.html>

“Unlimited-Term Conversion Portal Site for Limited-Term Workers” linked below (in Japanese):

<http://muki.mhlw.go.jp/>

(3) Government to submit a bill as soon as next autumn to raise the retirement age for civil servants to 65 by stages

The government has begun considering raising the retirement age for national and local public officials in stages from the current 60 to 65. They intend to secure personnel in an age of declining birthrate and aging population, as a decline in the working-age population seems likely. The plan is to submit a related bill perhaps as soon as the special session of the Diet in the autumn of next year.

The reason for looking at finally raising the age to 65 is that the age to begin collecting civil-servant pensions will be raised to 65 by the 2025 fiscal year. By matching the retirement age to the pension collection age, a “gap period” in income can be prevented.

Raising the retirement age can potentially lead to an increase in overall personnel costs, so the government will also explore ways of keeping salary levels under control, such as by introducing an administrators’ retirement system for those 60 and over.

(4) Fair Trade Commission considers protecting freelancers under the Antitrust Act: towards an improved working environment

The Fair Trade Commission has begun an enquiry into the situation of people who work freelance, without having an employment contract with a company, with the aim of improving their working environments. Freelancers are considered a “grey zone” falling in between the Antitrust Act and the Labor Standards Act, and problems have been pointed out, such as companies prohibiting them from being hired away by other companies, as well as imposing unfavorable conditions on them. The Fair Trade Commission is proceeding with investigations and deliberation on whether they can protect freelancers by applying the Antitrust Act.

At a press conference in July, the Fair Trade Commission stated that “[The question of] whether the Antitrust Act can be applied in show business or the sports world was a grey area we hadn’t dealt with, but we will be debating on whether it should be applied or not.” The committee aims to put together a report within this fiscal year.

(5) Labor Ministry presents outline for bill related to work-style reform: aims to put it into effect April 2019

On the 8th, the Ministry of Health, Welfare and Labor submitted an outline for a “Work-Style Reform Promotion Act” to the Labor Policy Council for deliberation. The bill outline centers on introducing the “equal pay for work of equal value” principle to regulate upper limits on overtime hours and improve conditions for irregular workers. They aim to put it into effect in April of 2019. It will be submitted to the special session of the Diet to be convened later this month.

This Work-Style Reform Promotion Bill would amend a total of eight laws, including the Labor Standards Act and the Part-Time Labor Act, all at once. Since it has the principle of work-style reform, it would renovate the Employment Measures Act and set it up as a fundamental law.

The proposed amendment to the Labor Standards Act includes, as well as upper limits on overtime, also includes a “High-level Professional System (Hi-Pro)” and an expansion of the discretionary working system. Regarding the Hi-Pro system, it reflects all the changes requested by Rengo, such as making it mandatory to give at least 104 days off per year.

Bills to amend all the following laws will be submitted together.

- 1) Labor Standards Act
- 2) Pneumoconiosis Act
- 3) Employment Measures Act
- 4) Industrial Safety and Health Act
- 5) Labor Dispatch Act
- 6) Working Hours Arrangements Act
- 7) Part-Time Labor Act
- 8) Labor Contract Act

“Proposed Law Outline Related to Preparing a Relevant Bill for the Promotion of Work-Style Reform”, presented Sept. 8th by the Labor Ministry linked below (in Japanese):

<http://www.mhlw.go.jp/file/05-Shingikai-12602000-Seisakutoukatsukan-Sanjikanshitsu/Roudouseisakutantou/0000176894.pdf>

(6) Strengthened oversight of “3-6 agreements” (overtime agreements): Okinawa Labor Bureau moves to make sure of “workers’ representatives”

The Okinawa Labor Bureau will be strengthening its supervision and guidance over the status of so-called “3-6 agreements”, the type of labor agreements necessary in order to make employees work overtime, at companies in the prefecture. They will investigate whether the “workers’ representative”, legally required to have signed the agreement with an employer when the agreement is filed, is an appropriate one. This will include looking closely at whether this representative actually represents a majority of employees, and whether he or she was chosen by a democratic process.

Relating to the appropriateness of a “workers’ representative”, it became clear in the illegal overtime incident at Dentsu that Dentsu’s union “was not composed of a majority of the workers, and was therefore not valid”. But the Tokyo District Prosecutor’s Office decided that, since the text of the agreement was submitted to the Labor Standards Inspection Office and it was unavoidable to mistakenly think that Dentsu’s executives had signed it, therefore the agreement was valid. It seems that based on this decision, it has been judged necessary to look closely at the contents of such agreements.

(7) Interior Ministry notifies municipalities: part-time employees should get the same number of months’ bonus as regular employees

The Interior Ministry has sent a notice to municipalities nationwide regarding the end-of-term allowances (bonuses) paid to part-time regular-service municipal employees, saying that the standard should be made the same number of months’ worth as for full-time employees.

Part-timers in regular service have been considered ineligible for bonuses, but in view of the government’s aim for “equal pay for work of equal value” in the private sector, based on the legal amendment that passed in May of this year, they will be able to be paid starting from fiscal Heisei 32 (2020).

Full-timers’ yearly amount is based on that of national civil servants, and currently most receive about 2.6 months’ worth.

The notice is dated August 23, and expresses as a guideline that eligibility should be extended to those whose term of service is 6 months or more. The total number of irregular local civil servants who have worked 6 months or more will be approximately 643,000 (as of April 2018). This includes special positions and temporary staff, but the Interior Ministry is asking that these people be transferred to part-time regular-service status. If this happens, the great majority will become eligible for payments.

2. Legal violations/struggles

(1) Overtime Recorder does not allow non-payment: lawyers develop an app for power in negotiation

Lawyers have developed an application that uses smartphone location data to leave

proof of overtime work. There has now been at least one case where the application was used to claim overtime pay, and the worker was able to win a financial settlement from the company. The lawyers who developed it say “by combining IT with legal services, we hope to help solve a problem for society”.

Lawyer Nakano says: “up until now, even if you wanted to claim overtime, the timecards or entry and exit records needed for evidence were usually in the hands of the company. How to get hold of them was a hurdle. But with Overtime Recorder, being able to have a reliable record in hand when you face the company in negotiations is a major advantage.”

It is free to use the app. There is a 54,000 yen fee to issue a certificate, but if you go to one of about 50 lawyers across the country who are registered with the app (as of June), they can issue it for free as well.

(2) National Cerebral and Cardiovascular Center’s labor agreement for “overtime up to 300 hours” is triple the *karoshi* line

It has been found out by a lawyer’s freedom-of-information request that the National Cerebral and Cardiovascular Center (Suita City, Osaka Prefecture), which performs advanced medical care such as organ transplants and emergency treatment, has a labor agreement based on Labor Standards Law Article 36 (a so-called “3-6 agreement”) allowing up to 300 hours overtime a month for doctors and nursing staff. This is three times the national standard limit for recognition of overwork death (the *karoshi* line). The National Cerebral and Cardiovascular Center says they intend to revise the contents of the agreement.

3. Situation/Statistics

(1) Labor shortage to double by 2025: future working population investigated

Regarding the future working population, a private research company has released an estimate that the labor shortage will double by 2025, and measures to deal with this.

Research company: “the current labor shortage situation is historically unprecedented in its pace of development and its extent. 1.36 million people would be able to work if there were a place they could work near their homes.”

According to the estimate, the current labor shortage in Japan is 2.48 million, but by 2025 this could go up to 5.38 million, or more than double. The number of people who cannot work due to raising children or taking care of the elderly is estimated at 7 million. The research company says that “if there were offices with childcare services, etc., in various places, 1.36 million people could be employed”.

(2) Jobs-to-applicants ratio rises for five months in a row, hits 43-year high in July

The jobs-to-applicants ratio for July, announced on the 29th by the Ministry of Health, Welfare and Labor, was 1.52, or 0.01 points higher than the previous month. This is the fifth month in a row that it has increased, and its highest level since February 1974, 43 years and 5 months ago. Because the number of job-seekers has declined, with labor shortages in the background, improvement in the employment situation is continuing.

The jobs-to-applicants ratio expresses the number of job openings per job-seeker. The effective number of openings for July was 2,690,012--level with the previous month--but the effective number of applicants was 1,772,978, 0.4% lower than the previous month, so the jobs-to-applicants ratio increased. For *seishain* positions only, the ratio was level with the previous month at 1.01.

The unemployment rate (seasonally adjusted figure) for July, released on the 29th by the Interior Ministry, was the same as the previous month at 2.8%. The number of unemployed persons was 1.9 million, or 10,000 (0.5%) more than the previous month.

“General Job Placements, July, Heisei 29 (2017)”, released by Labor and Welfare Ministry on August 29, 2017, linked below (in Japanese):

<http://www.mhlw.go.jp/stf/houdou/0000175101.html>

“Workforce Survey (Basic Statistics) for July of Heisei 29 (2017)”, released by Statistics Office, Interior Ministry, linked below (in Japanese):

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

(3) Corporations’ internal reserves hit 406 trillion yen, their highest ever; ordinary profits also the highest ever: 2016

The Finance Ministry released the fiscal-2016 financial statistics for corporations on the 1st. Accumulated profit, the profit earned by corporations minus the dividends paid to stockholders, etc. (except finance and insurance industries), was 406.2348 trillion yen, 28 trillion more than the previous fiscal year and its highest record in history. While the Japanese economy continues on the track to recovery, corporations’ internal reserves are piling up.

Ordinary profits hit 74.9872 trillion yen, an increase of 9.9% over the previous year, and its highest figure since 1960 (as long ago as comparison is possible).

The government has asked companies to use their internal reserves for capital investment or for raising employees’ wages, but companies have not budged from their cautious stance. The amount of capital investment in fiscal 2016 was 42.938 trillion yen, only 0.7% more than the previous year. Since 2012, when the second Abe administration took office, internal reserves have piled up by 124 trillion yen.

Corporate ordinary profits for the April-June quarter of the same year, released at the same time, were 22.39 trillion yen, a 22.6% increase over the same quarter of the previous year. Meanwhile, the amount of domestic capital investment increased only by 1.5%, to 9.4506 trillion yen.

Corporate financial statistics for fiscal 2016, released Sep. 1, 2017, by Finance Ministry, linked below (in Japanese, partly in English):

<http://www.mof.go.jp/pri/reference/ssc/results/h28.pdf>

Corporate financial statistics for April-June 2016, released Sep. 1, 2017, by Finance Ministry, linked below (in Japanese, partly in English):

<http://www.mof.go.jp/pri/reference/ssc/results/h29.4-6.pdf>