



## Labor Update No.18 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) Make it a possible choice to start receiving public pension at older than 70: experts' suggestion

The experts' committee in the Cabinet Office that is debating society-building measures to cope with the aging population completed a framework proposal on September 12, including an idea to create a structure whereby the age to start receiving a public pension could be raised over 70. The government is predicted to make a cabinet decision within the year on a proposed amendment to its "Policy Principles for the Aged Society", the plan for mid-to-long-term measures for the elderly, based on the experts' suggested plan.

The age to begin receiving a pension is in principle 65, but even now it is possible to choose an age between 60 and 70. If one starts early, the amount received goes down by up to 30%, but on the other hand, for those that start later, the amount can go up by as much as 42%.

The framework proposal stating that the current situation is one where the desire to work is strong even among the elderly, suggests "why not consider making the system easier to use, such as by making it possible to choose to delay even later than 70?" A specific age is not mentioned, but at the July meeting, one member of the committee expressed the opinion that extending as far as 75 should be allowed.

#### (2) "Work-Style Reform Bill Outline" reported

A deliberative council in the Ministry of Health, Welfare and Labor reported back an outline for a bill related to "work-style reforms" to the Minister on September 15.

The bill for "work-style reforms" includes upper limits on overtime work; the introduction of a "work interval" system to set a fixed length of rest time between finishing work and starting the next day's work; and also the creation of a "high-level professional system", in which compensation could be determined by results and not by hours. This "high-level professional system", which was strongly criticized by the

opposition as a “zero overtime pay bill”, now has been amended to reflect revisions previously demanded by Rengo, including 104 days off per year. The government intends to submit the bill to the Autumn special session of the Diet that is to be summoned later this month.

The summary of the report is linked below (in Japanese):

<http://www.mhlw.go.jp/stf/houdou/0000177380.html>

The complete text is linked below (in Japanese):

[http://www.mhlw.go.jp/file/05-Shingikai-12602000-Seisakutoukatsukan-Sanjikanshitsu\\_Roudouseisakutantou/0000177728.pdf](http://www.mhlw.go.jp/file/05-Shingikai-12602000-Seisakutoukatsukan-Sanjikanshitsu_Roudouseisakutantou/0000177728.pdf)

(3) Transgender people’s aliases to be accepted on insurance cards by the National Federation of Health Insurance Societies, etc.

The Ministry of Health, Welfare and Labor has given notice that transgender people (whose gender identity does not match the sex of their body) will be allowed to have an alias printed along with their registered legal names on their health insurance cards, not only for National Health Insurance (*Kokumin Kenko Hoken*), but also for the National Federation of Health Insurance Societies (*Kenko Hoken Kumiai*) and the Japan Health Insurance Association (*Kyokai Kenpo*).

There have been cases in which transgender people felt mental distress on being called by their official name when seeking medical treatment. Therefore the Ministry had made it possible to have an alias listed along with the official name on National Health Insurance cards in July of 2016.

After this, there was demand for this to be expanded to the other public health insurance systems as well. Therefore they sent notice at the end of last month that aliases would also be allowed along with the official name on the insurance cards for the National Federation of Health Insurance Societies, which employees at large companies join; Japan Health Insurance Association, for employees at small and mid-size businesses; and the Latter-Stage Elderly Healthcare System, which those older than 75 can join.

In order to have an alias printed on one’s insurance card, you need to apply to the operator of the insurance in which you are enrolling, and attach a doctor’s certification that you are transgender, along with a document such as an employee ID to show that you use the alias in your everyday life.

The notice is linked below (in Japanese):

<http://www.hourei.mhlw.go.jp/hourei/doc/tsuchi/T170907S0010.pdf>

## **2. Legal Violations/Struggles**

(1) Foreign trainee’s clinical depression recognized as a work-related injury caused by power harassment

Clinical depression suffered by a 34-year-old Cambodian man who worked as a technical trainee at a construction company in Tokyo Prefecture has been recognized by Tachikawa Labor Standards Inspection Office (Tachikawa City, Tokyo Prefecture) as a work-related accident caused by workplace “power harassment” (*pawahara*). The man and the labor union to which he belongs announced this in a press conference on September 12. The Inspection Office’s approval was dated June 7.

According to the approval from Tachikawa Labor Standards Inspection Office, the man started work at a construction company in the prefecture in July of 2014, and was assigned to water and sewage piping work. Multiple Japanese supervisors used abusive words to him such as “*baka, kono yarou*” (you stupid bastard), and hit him in the head through his helmet. He also suffered violent treatment, such as being grabbed by the collar and knocked over, and in March 2016 was diagnosed with depression. The Tachikawa Labor Standards Inspection Office judged that the supervisors’ words and actions were personal attacks, beyond the limits of work guidance, and were the cause of his depression, which they therefore recognized as a work injury. The man had applied for workers’ accident compensation with the help of a union that supports trainees. He returned to his home country this month, and says he will continue receiving treatment for his depression.

(2) Irregular workers’ disparities at Japan Post “partially illegal”: Tokyo District Court orders compensation

Tokyo District Court reached a verdict on September 14 in a lawsuit by three irregular workers at Japan Post (Chiyoda-ku, Tokyo), who had sought a total of 15 million yen claiming that disparities between them and the regular employees in allowances, etc., were illegal. The court admitted that “it is illegal for irregular employees not to be paid a year-end and New Year holiday work allowance or a housing allowance at all”, and ordered that a total of 900,000 yen be paid in compensation.

The verdict was based on consideration of the three workers’ duties and the company’s pay-scale standards. Regarding the allowance for working during the year-end and New Year holiday period, the court judged that “it is paid in consideration of having to work during the busiest period, and it is unreasonable for this not to be paid to irregular employees”; and as for the housing allowance, that “this is paid to regular employees, even those who are not required to relocate for work, so it is unreasonable for this not to be paid to irregular employees as well”. Saying that the holiday allowance should be 80 percent of what a regular employee receives, and the housing allowance 60 percent, they ordered compensation of 40,000-500,000 yen be paid to each plaintiff.

On the other hand, in reference to Article 20 of the Labor Contract Act, the decision stated that “it is not based on the idea of ‘equal pay for equal work’, but allows for some difference in pay scales between regular and irregular employees”. The irregular workers had also sought compensation for, among other things, early-shift allowances, national-holiday pay, summer and year-end allowances, and nighttime special-duty allowances. The court, however, rejected these claims, saying they “can not be called

unreasonable disparities”.

The plaintiffs sought “correction of labor conditions going into the future”, but the court rejected this, saying that “resolution of unreasonableness in working conditions ought to be decided based on the results of negotiation between workers and the employer”. Dissatisfied with this point, as well as with compensation for only 60-80% of what regular employees receive, the plaintiffs intend to appeal. Even so, this ruling, coming at a time when the government is calling for realization of “equal pay for equal work”, can be said to be supporting movement in that direction.

### **3. Situation/Statistics**

#### **(1) Tokyo Star Bank to begin providing housing loans to foreign nationals without permanent residency**

A new effort to secure foreign labor is beginning at the bank. Up until now, for a foreign national working in Japan to obtain a housing loan, in almost all cases permanent residency was necessary. However, many people repeatedly renew short-term working visas and continue to stay in Japan for decades. 80 percent do not have permanent residency. Now it will become easier for foreign residents to get housing loans, even without permanent residency.

Until now, foreign workers who lacked permanent residency could not get housing loans except under certain conditions, such as having a Japanese spouse. However, starting on September 14, Tokyo Star Bank will begin providing housing loans even to those without the permanent residency. Amid increasing need to employ foreign nationals to counter the decline in Japan’s working population, seeing the needs of people who work in Japan for a long time and want to buy a house or condominium, they decided to begin providing the loans.

#### **(2) 1,742 part-time workers enrolled in pension at small to mid-size companies under 500 people**

On September 13, the Ministry of Health, Welfare and Labor (MHLW) released the pension enrollment figures as of the end of June 2017 (preliminary report) for part-time workers at small to mid-size companies having 500 employees or fewer. At 1,270 workplaces around the country, a total of 1,742 employees were enrolled. It requires an agreement between workers and the employer, but voluntary enrollment has been possible since April.

Details linked below (in Japanese):

<http://www.mhlw.go.jp/stf/shingi2/0000177430.html>

#### **(3) Kyoto University Center for iPS Cell research and Application (CiRA)’s “request for support” draws attention: “over 90% are irregularly employees”, some say “they ought to get better treatment”**

A “request for support” posted by Kyoto University Center for iPS Cell research and Application (CiRA), headed by Nobel Physiology/Medicine Prize winner Mr. Shinya Yamanaka, is gaining attention online. It calls for donations, saying that funds that can be available for the long term are essential for research on iPS cells.

On the page requesting support, Mr. Yamanaka reveals the situation the Center is in: “since most of our funding comes with time limits, over 90 percent of our staff are employed on an irregular basis”. With even an institution that does cutting-edge research struggling to raise funds and unable to provide regular employment, opinions have been heard online such as “intellectual elites could be treated a little better”, and “with such a future in it, it’s strange that corporations don’t get on board”.

The call for support is linked below (in Japanese):

<http://www.cira.kyoto-u.ac.jp/j/fund/index.html>

(4) Elderly are 27.7% of population, for the first time more than 2 million people are over 90: Interior Ministry

The Interior Ministry announced the estimated population of elderly people over 65 on September 17. As of September 15, this number was 35.14 million, which was 570,000 more than the same time the previous year, and the highest it has been so far. While the total population shrinks, the number of elderly people is increasing: their proportion of the total rose 0.5 percentage points to 27.7%, setting a new record. The number of people over 90 went up to 2.06 million, the first time it has broken the 2 million mark.

The number of elderly people in employment in 2016 was 380,000 up on the previous year, at 7.7 million, its thirteenth year in a row of increases. The proportion of this to the total number of employed people over 15 went up by 0.5 points, to 11.9%. With labor shortages due to the declining birthrate, employment of elderly people is expanding. By type of employment, the number of irregular workers increased. In 2016 there were 3.01 million, or 330,000 more than the previous year. This accounted for 75.1% of those employed, excluding company executives and the self-employed.

Summary linked below (in Japanese):

<http://www.stat.go.jp/data/topics/topi1030.htm>

Details linked below (in Japanese):

<http://www.stat.go.jp/data/topics/pdf/topics103.pdf>

(5) Economic groups release joint statement on rectifying overlong work hours

A total of 110 economic organizations, including the Japan Business Federation (Keidanren) as well as the Japan Association of Corporate Executives and the Japan Chamber of Commerce and Industry, released a “Joint Statement Aimed at Rectifying Business Practices that Lead to Long Hours of Work” on September 22.

In addition to compliance with laws and rules, the statement covers 6 items concretely, including: 1, thorough clarity in contract conditions, so as not to sign contracts that are vague as to the contents of an order; 2, refraining from nonessential and non-urgent day and time requests, such as those that would lead to trading partners working on their holidays or late at night; 3, refraining from meetings or calls outside of trading partners' working hours; etc.

Statement linked below (in Japanese):

[http://www.keidanren.or.jp/policy/2017/071\\_sengen.pdf](http://www.keidanren.or.jp/policy/2017/071_sengen.pdf)

(6) Irregular worker ratio rises to 37%, a reflection of labor shortage: Labor Ministry

On the 19<sup>th</sup>, the Ministry of Health, Welfare and Labor (MHWL) announced the results of their survey of the general situation of part-time workers for 2016 (as of October 1). The proportion of irregular employees to all employees was 37.2%, an increase of 2.8 points over the previous survey 5 years before. In the Ministry's analysis, "due to severe labor shortages, an increasing number of companies are moving to secure personnel to substitute for regular company employees".

The proportion of irregular workers was 22.6% for men, a rise of 2.3 points; for women, it was 55.0%, an increase of 0.6 points. By industry, the hospitality and food service industry had the highest number at 68.7%.

This survey is carried out usually once every five years. This time the subjects were approximately 17,000 workplaces with 5 or more workers usually working there.

"Overview of Heisei 28 Survey of the General Situation of Part-Time Workers" linked below (in Japanese):

<http://www.mhlw.go.jp/toukei/itiran/roudou/koyou/keitai/16/>

(7) Over 40 million "modern-day slaves" in the world: UN report

As of 2016, over 40 million victims worldwide are placed in situations resembling "modern-day slavery", and a quarter of these are children, according to a report released recently by the UN International Labor organization (ILO) and international NGO the Walk Free Foundation.

According to the report, an estimated 25 million people were made to work by threats or by force in 2016. The number of people forced into marriage reached 15 million.

Of the approximately 40 million victims, those who were able to get some form of relief or support, whether by the perpetrator's being prosecuted or through some sort of support system for victims, are believed to number only in the tens of thousands.

71% of the victims are female. Of those made to work in the sex industry, 99% are women, while for those forced into marriage the number is 84%.

The proportion of children to the total number of victims is 37% for forced marriage, 18% for forced labor, and 21% for sexual exploitation.

"Modern-day slavery" as defined in the report includes the situation of being made to work by threats, violence, or force, without being able to refuse or quit; being restrained due to debt; forced marriage; and human trafficking.

The ILO points out, in its own independent 2017 report on child labor, that, of children aged 5-17 worldwide, 152 million are engaged in child labor. 73 million of these are said to be made to do work that directly threatens their health, safety, or development of a moral conscience.

Reports linked below (in English):

<https://www.globallslaveryindex.org/>

<http://www.ilo.org/global/topics/child-labour/lang--en/index.htm>